



## MAYOR AND COUNCIL

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**MEETING NO. 32-21**  
**Monday, September 13, 2021 – 7:00 PM**

### AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Any person who requires assistance in order to attend a city meeting should call the ADA Coordinator at 240-314-8108.

Rockville City Hall is closed due to slowing down the spread of the coronavirus COVID-19 and continue practicing safe social distancing.

#### **Viewing Mayor and Council Meetings**

To support social distancing, the Mayor and Council are conducting meetings virtually. The virtual meetings can be viewed on Rockville 11, channel 11 on county cable, livestreamed at [www.rockvillemd.gov/rockville11](http://www.rockvillemd.gov/rockville11), and available a day after each meeting at [www.rockvillemd.gov/videoondemand](http://www.rockvillemd.gov/videoondemand).

#### **Participating in Community Forum & Public Hearings:**

If you wish to submit comments in writing for Community Forum or Public Hearings:

- Please email the comments to [mayorandcouncil@rockvillemd.gov](mailto:mayorandcouncil@rockvillemd.gov) by no later than 10:00 a.m. on the date of the meeting.
- All comments will be acknowledged by the Mayor and Council at the meeting and added to the agenda for public viewing on the website.

If you wish to participate virtually in Community Forum or Public Hearings during the live Mayor and Council meeting:

1. Send your **Name, Phone number, the Community Forum or Public Hearing Topic and Expected Method of Joining the Meeting (computer or phone)** to [mayorandcouncil@rockvillemd.gov](mailto:mayorandcouncil@rockvillemd.gov) no later than **10:00 am on the day of the meeting**.
2. On the day of the meeting, you will receive a confirmation email with further details, and two Webex invitations: 1) Optional Webex Orientation Question and Answer Session and 2) Mayor & Council Meeting Invitation.
3. Plan to join the meeting no later than 6:40 p.m. (approximately 20 minutes before the actual meeting start time).
4. Read for <https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex>
5. meeting tips and instructions on joining a Webex meeting (either by computer or phone).
6. If joining by computer, **Conduct a WebEx test:** <https://www.webex.com/test-meeting.html> prior to signing up to join the meeting to ensure your equipment will work as expected.
7. Participate (by phone or computer) in the optional Webex Orientation Question and Answer Session at 4 p.m. the day of the meeting, for an overview of the Webex tool, or to ask general process questions.

#### **Participating in Mayor and Council Drop-In (Mayor Newton and Councilmember Pierzchala)**

Drop-In Sessions will be held by phone on Monday, September 27 from 5:30-6:30 p.m. **Please sign up by 10 a.m. on the meeting day using the form at:** <https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227>

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- 7:45 PM **7. Community Forum**

Any member of the community may address the Mayor and Council for 3 minutes during Community Forum. Unless otherwise indicated, Community Forum is included on the agenda for every regular Mayor and Council meeting, generally between 7:00 and 7:30 pm. Call the City Clerk/Director of Council Operation's Office at 240-314-8280 to sign up to speak in advance or sign up in the Mayor and Council Chamber the night of the meeting.

- ## 8. Mayor and Council's Response to Community Forum

**8:00 PM 9. Consent**

**A. Approval of Minutes**

**8:05 PM 10. Public Hearing on Community Needs: FY 2023 CDBG Grant Funding**

**8:15 PM 11. Public Hearing for Sectional Map Amendment MAP2021-00120, for the North Stonestreet Avenue and Park Road and North/South Stonestreet Avenue Plan Amendment Areas; Mayor and Council of Rockville, Applicants**

**8:35 PM 12. Public Hearing for Zoning Text Amendment TXT2021-00258, for Changes to Setback and Open Space Requirements for the Residential Medium Density (RMD) Zones, the Creation of a New RMD-Infill Zone to Implement the Comprehensive Plan Amendments for the North Stonestreet Avenue and Park Rd Areas; Mayor and Council of Rockville, Applicant**

**8:55 PM 13. Possible Adoption of an Annexation Agreement (King Buick)**

**9:25 PM 14. Introduction and Possible Adoption of an Ordinance to Approve Zoning Text Amendment TXT2021-00260, to Modify the Requirements for Project Plans, Roadway Classifications in Mixed Use Zones, Minor and Major Site Plan Amendments, Development Approval Abandonment, the Definition of Demolition, and the Addition of Research and Development Use and Related Parking Standard; Mayor and Council of Rockville, Applicants**

**9:45 PM 15. Brightview Senior Housing: Conceptual Discussion on In-Lieu Fee on Senior or Special Needs Housing with Services**

**10:15 PM 16. Adoption of Resolution: Hate Has No Place Here: Condemning and Denouncing All Hate and Hate-Motivated Violent Actions in the City of Rockville.**

**10:20 PM 17. Review and Comment- Future Agendas**

**A. Future Agendas**

**18. Old/New Business**

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10:30 PM **19. Adjournment**

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: <http://www.rockvillemd.gov/mcguidelines>.





Mayor & Council Meeting Date: September 13, 2021

Agenda Item Type: Proclamation

Department: PW - Traffic & Transportation

Responsible Staff: Bryan Barnett-Woods

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## **Subject**

Proclamation Declaring September 22 as National Car Free Day

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## **Recommendation**

Staff recommends that the Mayor and Council read, approve, and present the proclamation to Eric Fulton, Chair of the Rockville Pedestrian Advocacy Committee.

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## Discussion

Car Free Day is an international event celebrated every September 22 to encourage people to travel by train, bus, bicycle, carpool, van pool, subway, or walk for commuting or errands, instead of driving. Car Free Day is organized in various cities throughout the world in different ways, all with the common goal of reducing the number of cars on the streets. The benefit to the greater society is a day with less traffic congestion, better air quality, healthier travel habits, and reduced gasoline demand.

The Metropolitan Washington Council of Governments, through the Transportation Planning Board (TPB) of the National Capital Region, promotes Car Free Day. Locally, Car Free Day was first recognized by the District of Columbia in 2007. A regional roll out occurred in 2008 with TPB support. The Council of Governments' Commuter Connections Program promotes and organizes the annual Car Free Day event, along with its network members throughout the region. The program primarily encourages individuals who ordinarily travel alone by car for work, errands, and classes. Secondary groups are those already in car free travel modes.

Car Free Day includes celebrations in 46 countries and over 2,000 cities. In 2020, there were 3,834 people in the Washington region that pledged to park their cars and take transit, bike, walk, or carpool to work and other destinations. Of those, 667 people were from Montgomery County and 111 people were from the City of Rockville. 2020 was the first year that the highest proportion of people pledging to be car-free opted for telework, however walking and bicycling remained impactful in part because a third of people in the region had pledged to walk or bike for recreation or exercise. It is likely that telework will remain popular this year along with walking and bicycle for recreation.

According to the 2019 American Community Survey, 55.6 percent of City of Rockville commutes were driving alone; 8.1 percent carpool, 4.2 percent walking, 0.2 percent bicycling, 8.2 percent teleworking or working from home, and 23.8 percent using public transit or other means. The recently approved *Rockville 2040: Comprehensive Plan* and the *2017 Bikeway Master Plan* both advance policies and goals to increase multimodal transportation in the city.

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## Mayor and Council History

This is the sixth year that the Mayor and Council have recognized Car Free Day in the City of Rockville.

## Attachments

Attachment 6.A.a: 2021 Proclamation Declaring September 22 as Car Free Day (PDF)

# Linda Moran

Linda Moran, Assistant to the City Manager

9/9/2021





**WHEREAS**, the National Capital Region Transportation Planning Board (TPB) is the Metropolitan Planning Organization for the Washington Region; and

**WHEREAS**, the TPB, through its Commuter Connections program, promotes and organizes the annual Car Free Day event along with its network members throughout the Washington area; and

**WHEREAS**, Car Free Day invites Washington region citizens to try alternative forms of transportation such as transit, bicycling and walking, and "car lite" methods such as carpools and vanpools, and teleworking; and

**WHEREAS**, Car Free Day benefits Rockville and the National Capital Region through improved air quality, reduced traffic congestion and parking demands, and the conservation of energy; and

**WHEREAS**, Car Free Day is a special day to rediscover Rockville without a car and reconnect with fellow residents, businesses, etc., and to remind people about their transportation options, environmental impacts and other quality of life issues that are within their control.

**NOW, THEREFORE, THE MAYOR AND COUNCIL OF ROCKVILLE** do hereby proclaim Wednesday, September 22, 2021 as Car Free Day throughout the City of Rockville; and encourage all residents to go car free or car-lite (carpool, vanpool) on Wednesday, September 22, 2021 and pledge to be Car Free or Car Lite by visiting [www.carfreemetrodc.org](http://www.carfreemetrodc.org).



 Bridget Donnell Newton, Mayor	
 Monique Ashton, Councilmember	 Beryl L. Feinberg, Councilmember
 David Myles, Councilmember	 Mark Pierzchala, Councilmember

September 13, 2021





Mayor & Council Meeting Date: September 13, 2021  
 Agenda Item Type: Proclamation  
 Department: Housing and Community Development  
 Responsible Staff: Asmara Habte

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## Subject

Proclamation Declaring National Hispanic Heritage Month

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## Recommendation

Staff recommends that the Mayor and Council read and approve the proclamation.

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## Discussion

In 1968, President Lyndon B. Johnson signed into law the National Hispanic Heritage Week. It became the National Hispanic Heritage Month in 1989 celebrated between September 15 to October 15. The month marks the anniversary of independence of five Latin American countries, including Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, all of whom declared independence from the former colonial power, Spain, on September 15, 1821. Mexico, Chile, and Belize<sup>1</sup> celebrate Independence Day on September 16th, 18, and 21st.

During the month of September, communities gather to share the diverse and rich cultural history and heritage. The City of Rockville, through its annual programs like Hometown Holidays, Dr. Martin Luther King, Jr. celebration, and International Night, encourages participation to highlight this valuable segment of the population.

A Proclamation Declaring National Hispanic Heritage Month is attached.

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## Mayor and Council History

The Mayor and Council issues this proclamation annually.

## Attachments

Attachment 6.B.a: 2021 Proclamation Declaring Sept 15 - Oct 15 National Hispanic Heritage Month (PDF)

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<sup>1</sup> Belize was emancipated from Spanish rule in 1836. Great Britain declared Belize as a British Crown Colony in 1862.



Rob DiSpirito, City Manager

9/9/2021



**WHEREAS**, the observation of Hispanic Heritage week started in 1968 and was expanded into a month-long observation in 1988; and





**WHEREAS**, 14 percent of Rockville's population are of Hispanic or Latino origin; Those who identify as Hispanics or Latino can be of any race or religion and represent many cultures and countries; and

**WHEREAS**, we pay tribute to the generations of Hispanic and Latino Americans who have positively influenced and enriched our nation, including those who have shared their talent as performers, made scientific breakthroughs, been successful entrepreneurs, politicians and brave participants in our armed forces; and

**WHEREAS**, the City celebrates and enjoys the participation of the Hispanic and Latino community as a valued segment of our community at annual events such as Hometown Holidays, International Night and the Martin Luther King Jr. celebration.

**NOW, THEREFORE**, The Mayor and Council of Rockville, do hereby proclaim September 15 to October 15<sup>th</sup> as National Hispanic Heritage Month in Rockville, and call upon all the residents of this great City to join in the celebration of our Hispanic and Latino neighbors and friends.



 Bridget Donnell Newton, Mayor	 Beryl L. Feinberg, Councilmember
 Monique Ashton, Councilmember	 Mark Pierschala, Councilmember

**September 13, 2021**





Mayor & Council Meeting Date: September 13, 2021

Agenda Item Type: Proclamation

Department: Police

Responsible Staff: Victor Brito

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## Subject

Proclamation Declaring September 2021 as National Preparedness Month

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## Recommendation

Staff recommends that the Mayor and Council read, approve, and present the proclamation to Dr. Mark Landahl, Emergency Manager, Rockville Police Department.

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## Discussion

National Preparedness Month (NPM), recognized each September, provides an opportunity to remind us that we all must prepare ourselves and our families now and throughout the year. The theme for the 2021 NPM is: *"Prepare to Protect. Preparing for disasters is protecting everyone you love."*

2021 has been yet another unprecedented year for disasters with the continuation of the COVID-19 pandemic, floods in many parts of the Country, the return of active shooter events, cyber attacks that disrupted fuel supplies, and wildfires that affected many communities in the west. These events provide a strong reminder of the varied nature of the hazards that can impact us, sometimes simultaneously.

The 2021 National Preparedness Campaign focuses on activities in the four weeks of the month of September:

### Week 1 (September 1-4) *Make A Plan*

- Talk to your friends and family about how you will communicate before, during, and after a disaster. Make sure to update your plan based on the Centers for Disease Control recommendations due to the coronavirus.

### Week 2 (September 5-11) *Build a Kit*

- Gather supplies that will last for several days after a disaster for everyone living in your home. Don't forget to consider the unique needs that each person or pet may have in case you have to evacuate quickly. Update your kits and supplies based on recommendations by the Centers for Disease Control.



### Week 3 (September 12-18) *Prepare for Disasters*

- Limit the impacts that disasters have on you and your family. Know the risk of disasters in your area and check your insurance coverage. Learn how to make your home stronger in the face of storms and other common hazards and act fast if you receive a local warning or alert.

### Week 4 (September 19-24) *Teach Youth About Preparedness*

- Talk to your kids about preparing for emergencies and what to do in case you are separated. Reassure them by providing information about how they can get involved.

Take time to learn or enhance your lifesaving skills such as taking classes in CPR and first aid. Check your insurance policies and coverage for the hazards you may face, such as floods, earthquakes, and tornadoes. Make sure to consider the costs associated with disasters and save for an emergency. Also, know how to take practical safety steps like shutting off water and gas in your home and workplace.

The many disasters that our nation has endured over the last several years including the most recent pandemic, devastating hurricanes, wildfires, other weather emergencies, cyber attacks and active shooting events remind us of the importance of preparing. Often, the survivors will be the first ones in communities to take action after a disaster strikes and before first responders arrive, so it is important to prepare in advance to help yourself and your community. Remember that you are the help until the help arrives. *“Prepare to Protect. Preparing for disasters is protecting everyone you love.”*

- Be Informed, Plan Ahead, and Take Action are the core activities of preparedness; Sign up for City of Rockville’s [Alert Rockville](#) System.
- Use the ready.org website to build a family plan and practice it.
- Build a disaster supply kit.
- Attend training to enhance your knowledge and skills.

Preparing your family for an emergency can start as simply as a conversation over dinner; don’t wait.

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## Mayor and Council History

This is an annual recognition by the Mayor and Council.

## Attachments

Attachment 6.C.a: 2021 National Preparedness Month (PDF)

A handwritten signature in black ink, appearing to read "Rob DiSpirito", is written over a horizontal line.

Rob DiSpirito, City Manager

9/8/2021



**WHEREAS**, the City of Rockville is dedicated to promoting preparedness for its citizens; and

**WHEREAS**, emergencies come in many forms including fire, heat wave, drought, flood, hurricane, winter storm, and more; and

**WHEREAS**, a plan before an emergency arises will speed the recovery process. Some ways to plan ahead include preparing an emergency kit, practicing for an evacuation or sheltering in place, developing a communication plan, and signing up for emergency messages through "Alert Rockville;" and

**WHEREAS**, we commend first responders who courageously put themselves in harm's way to ensure our safety and recognize that the community can assist by taking steps to prepare for a disaster before one occurs.

**NOW, THEREFORE**, the Mayor and Council of Rockville do hereby proclaim September 2021 as National Preparedness Month, and urge the Rockville community to prepare for emergencies and spread the word regarding the importance of having a plan.



*Bridget Donnell Newton*  
Bridget Donnell Newton, Mayor

*Monique Ashton*  
Monique Ashton, Councilmember

*Beryl L. Feinberg*  
Beryl L. Feinberg, Councilmember

*David Myles*  
David Myles, Councilmember

*Mark Pierzchala*  
Mark Pierzchala, Councilmember

September 13, 2021





Mayor & Council Meeting Date: September 13, 2021  
 Agenda Item Type: Proclamation  
 Department: City Clerk/Director of Council Operations Office  
 Responsible Staff: Sara Taylor-Ferrell

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## Subject

Proclamation Declaring September 28, 2021 as National Voter Registration Day

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## Recommendation

Staff recommends that the Mayor and Council read, approve and present the Proclamation to Robert Kurnick, Chair of Rockville Board of Supervisors of Elections.

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## Discussion

National Voter Registration Day occurs on the fourth Tuesday each September. Hundreds of local, state, and national organizations help to coordinate nationwide events to bring awareness to elections, ballot initiatives, voter registration and voter registration updates. Maryland residents can use Maryland's Online Voter Registration System (OLVR) or submit a voter registration application to their local Board of Elections or the State Board of Elections to register to vote, update their registration and request an absentee ballot.

One can also register to vote during early voting. To make the voting process quicker, registering to vote by the close of the voter registration date is encouraged. If one cannot register by the date, one can go to an Early Voting Center in the County.

Registered voters have always been able to vote during early voting, but now individuals who are eligible but not yet registered can register and vote.

To register and vote during early voting, go to an early voting center in the county where you live and bring a document that proves where you live. This document can be your MVA-issued license, ID card, or change of address card, or paycheck, bank statement, utility bill, or other government document with your name and new address. You will be able to register to vote and vote.

Additional information for Registration, Early Voting, or Request for Absentee Ballot can be found at [http://www.elections.state.md.us/voting/early\\_voting.html](http://www.elections.state.md.us/voting/early_voting.html). Montgomery County, MD voter information can be found at [www.777vote.org](http://www.777vote.org) or by calling 240.777.VOTE (8683).

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## Mayor and Council History

This is the second time this item has been brought before the Mayor and Council.

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## Public Notification and Engagement

September 28, National Voter Registration Day! The City Clerk/Director of Council Operations Office and the Rockville Board of Supervisors of Elections will hold an Outreach Voter Registration Day, Get#VoteReady, Rockville Town Square Library, 21 Maryland Avenue from 10:00 am - 2:00 pm.

Voters registered in new and innovative ways despite all the challenges, information on the upcoming elections in 2022.

### Key Dates

#### 2022 Primary Election

- Registration Deadline – August 31
- Primary Election – June 28, 2022 -7:00 AM until 8:00 PM
- Early Voting – June 16-June 23, 2022 – 8:00 AM until 8:00 PM

#### 2022 General Election

- Registration Deadline – August 31
- General Election – November 8, 2022 – 7:00 AM – 8:00 PM
- Early Voting – October 27 – November 3, 2022 – 8:00 AM until 8:00 PM

## Attachments

Attachment 6.D.a: 2021 National Voter Registration Day (PDF)

  
Sara Taylor-Foreman, City Clerk/Director of Council Operations 9/8/2021





**WHEREAS**, the right to vote is a cornerstone of what it means to be a free people: it represents the bedrock tenets of equality and civic participation upon which our Nation was founded and many have fought to obtain and protect; and





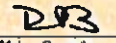
**WHEREAS**, every year millions of Americans do not claim their right to vote because they miss a deadline, do not know how to register or do not know they need to update their voter registration information if they change their name or change their address; and

**WHEREAS**, the City of Rockville is committed to strengthening democracy by encouraging voter registration and increasing participation in all elections; and

**WHEREAS**, the strength of our democracy depends on the willingness of citizens to participate in the election process, by choosing our leaders and by voicing their opinions on important matters that come before the voters on Election Day; and

**NOW, THEREFORE**, the Mayor and Council of Rockville do hereby proclaim September 28, 2021 as **National Voter Registration Day** and encourage everyone to register to vote, review their voter registration information or update their registration information and hence be able to exercise their most basic American right – the right to vote.



	
Bridget Donnell Newton, Mayor	Beryl L. Feinberg, Councilmember
	
Monique Ashton, Councilmember	Mark Pierzchala, Councilmember
	
David Myles, Councilmember	

September 13, 2021



Mayor & Council Meeting Date: September 13, 2021  
Agenda Item Type: Consent  
Department: City Clerk/Director of Council Operations Office  
Responsible Staff: Judy Penny

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## Subject

Approval of Minutes

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## Recommendation

Staff recommends the Mayor and Council approve the following minutes:

May 3, 2021 (Meeting No. 17-21)  
May 10, 2021 (Meeting No. 18-21)  
May 17, 2021 (Meeting No. 19-21)  
May 24, 2021 (Meeting No. 20-21)

June 1, 2021 (Meeting No. 22-21)  
June 7, 2021 (Meeting No. 23-21)  
June 10, 2021 (Meeting No. 24-21)  
June 14, 2021 (Meeting No. 25-21)  
June 21, 2021 (Meeting No. 26-21)

  
Sara Taylor-Forren, City Clerk/Director of Council Operations 9/9/2021





Mayor & Council Meeting Date: September 13, 2021  
 Agenda Item Type: Public Hearing  
 Department: Housing and Community Development  
 Responsible Staff: Allison Hoy

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## Subject

Public Hearing on Community Needs: FY 2023 CDBG Grant Funding

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## Recommendation

1. Receive a brief staff presentation on the upcoming CDBG funding cycle and application process;
2. Conduct a public hearing on community needs; and
3. Hold the public record open until September 27, 2021.

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## Discussion

Each year, the City of Rockville receives federal Community Development Block Grant (CDBG) funds through a cooperative agreement with Montgomery County. CDBG funds must be used for housing and community development projects that primarily benefit low- and moderate-income persons or neighborhoods. It is anticipated that Rockville will receive approximately \$263,000 in CDBG funding for federal Program Year 48, which is FY 2023.

For FY 2023, the CDBG program will be accepting applications online for the first year. During FY 2020, Mayor and Council approved funding for a grant application software for the Human Services Nonprofit Grant, based on a recommendation by the Caregiver Funding Task Force that was presented on July 15, 2020. The grant application software aims to improve efficiency of the application and reporting processes for nonprofits, allow Grant Review Panels to review and score grant applications online and helps staff provide improved communication and technical assistance to applicants. In future fiscal years, the CDBG program will accept applications year-round with due dates set in the Fall prior to the beginning of the contract period. An open application period will allow nonprofit organizations more flexibility with applications.

In recent years, the Mayor and Council has targeted funds to capital improvements and physical improvements (public or social services are not funded) and instituted a minimum grant amount of \$15,000 for outside agencies. Unless otherwise directed, the staff will continue this policy when reviewing funding applications.

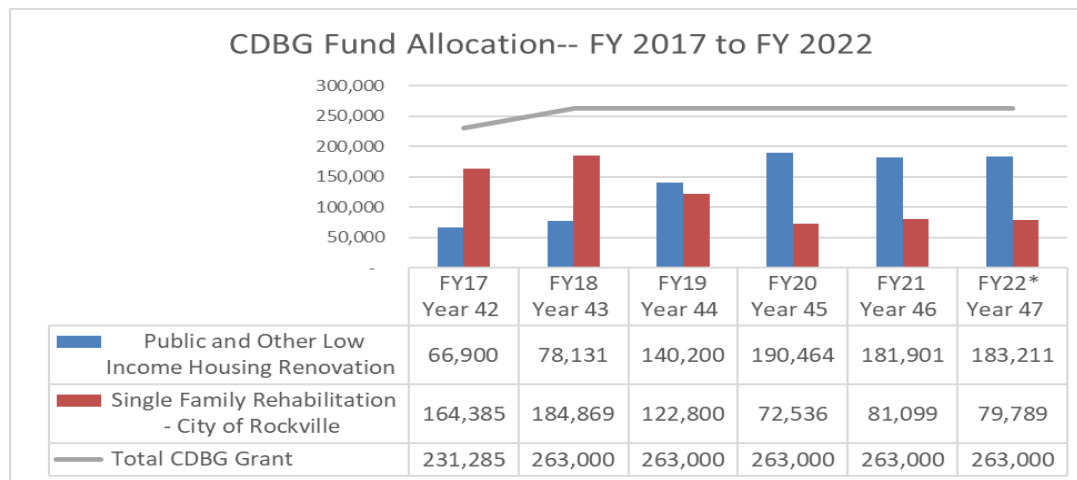
The City has focused much of its CDBG allocation to rehabilitating different types of housing. For example, for the FY 2022 funding application to the County, the Mayor and Council approved the following projects:



**Table 1.** Proposed FY 2022 CDBG Fund Allocation

Agency	Scope	Funding Level
Community Reach of Montgomery County	Replacement of wooden shutters in disrepair at Jefferson House (111 W. Jefferson Street), a permanent supportive housing dwelling. The location is a historic property.	\$11,800
Housing Unlimited	Housing Unlimited proposes repairs and maintenance at one of its affordable homes for residents in mental health recovery (125B Pasture Side Place). Project includes window replacements, kitchen renovation, and painting work.	\$31,411
Rockville Housing Enterprises (RHE)	RHE proposes to replace the roofs of 13 of the proposed 24 units at its David Scull <sup>1</sup> site and five (5) single family homes (507 and 509 Bickford Ave, 512 Woodston Rd, 726 Grandin Ave, 1208 Parrish Dr, 13303 Midway Ave).	\$140,000
City of Rockville	Assist potential single-family applicants who may seek repair services.	\$79,789
<b>TOTAL</b>		<b>\$263,000</b>

The chart below shows CDBG allocations for the past five grant years, FY 2017 to FY 2022 (Federal Program Years 42 to 47).

**Chart 1.** CDBG Allocation by Use

Source: City of Rockville, HCD, 2021

\*Anticipated award amount

<sup>1</sup> RHE's proposal submission lists the following units in the David Scull site that would receive roof replacement include the following 24 units on First Street: 1260, 1262, 1264, 1266, 1268, 1270, 1272, 1274, 1276, 1278, 1280, 1282, 1284, 1286, 1288, 1290, 1292, 1294, 1296, 1298, 1313, 1315, 1317 and 1319. RHE may substitute units as necessary.

### **Public Hearing**

This public hearing is a prerequisite to applying for CDBG funds. The purpose of the public hearing is to obtain public input on community needs and priorities. The applicants and their applications for CDBG funds should be focused on these community needs and priorities. The application period for external agencies began on August 4, 2021. Applications for funding are due to the City of Rockville on September 27, 2021.

After reviewing and scoring submitted applications, staff will recommend the use of the CDBG funds to the Mayor and Council for consideration and approval in November or December. The City's funding application will reflect the Mayor and Council's decisions and is due to Montgomery County by December 31, 2021, with funding becoming available in the fall of 2022.

### **Community Needs**

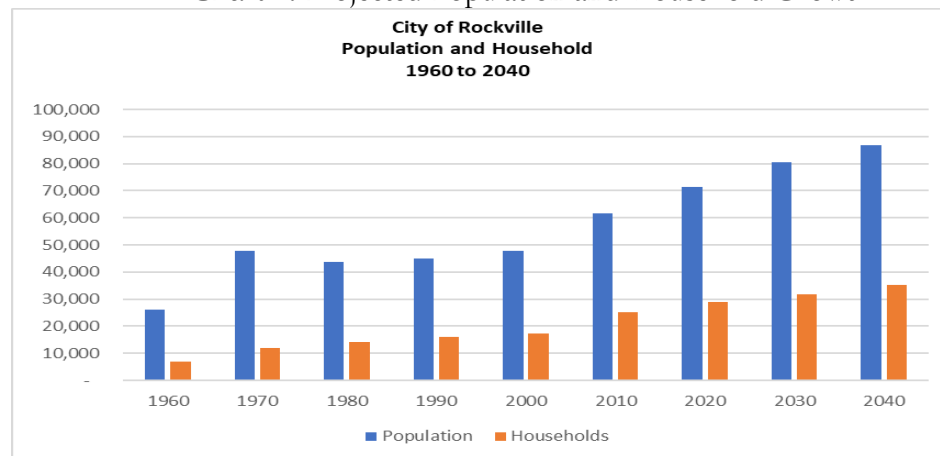
Federal guidelines require that CDBG activities be responsive to community needs. The section below is a summary of Rockville's population trends and housing needs.

#### *Demographic and Other Characteristics Affecting Housing Needs and Trends*

- Between 2020 and 2040, Rockville's population is projected to increase from 67,117 residents<sup>2</sup> to approximately 82,000 residents, who would be housed in approximately 10,000 new housing units.

Below is a graphic illustration of the city's historic and projected population and household growth.

**Chart 2. Projected Population and Household Growth**



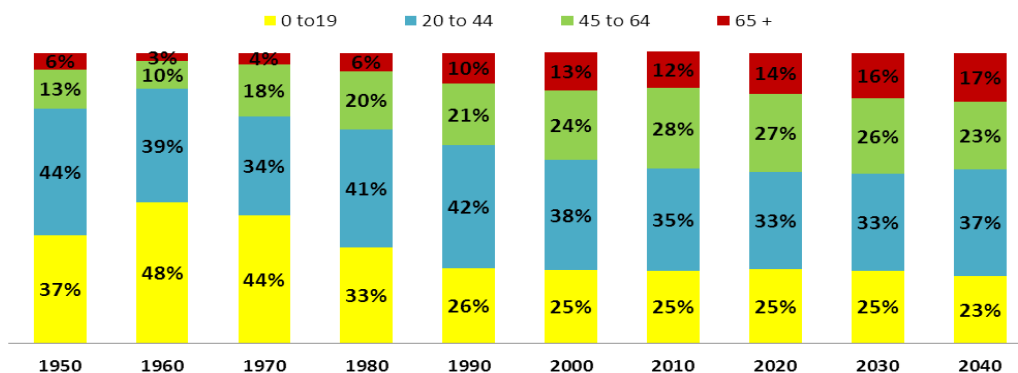
Sources: City of Rockville, PDS, 2018; U.S. Census (2015 Population Estimates and Intercensal Population Estimates) and and MWCOC (Round 9.0); U.S. Census Bureau. Historical Decennial Census.

- Rockville's population is aging, resulting in a need for different types of senior housing for residents who want to remain in Rockville in retirement. Below is a graphic illustration of the city's current and projected population by age cohort.

<sup>2</sup> Source: Reported by City of Rockville, CPDS, 2020. Original data from U.S. Census Bureau, 2020.

### Chart 3. Age Distribution

Existing and Projected Population by Age Cohort



Source: City of Rockville, PDS, 2019

- Census data shows Rockville's area median household income to be \$100,677 in 2019<sup>3</sup>.
- 2019 Census data shows that 7.6% of the city households live below the federal poverty line. Poverty levels are higher for certain families— in 2018 10% for female headed households and 14.7% for families with children under 18 years.
- Nearly 70% of the student body at one Rockville elementary school receives Free and Reduced Priced Meals (FARMs)<sup>4</sup>, indicating that there are neighborhoods with higher concentrations of low-income households.
- Prior to the COVID-19 pandemic, Rockville anticipated that over 30,000 new jobs will be added between 2020 and 2040; most will be office jobs. There is uncertainty how the COVID-19 pandemic will impact job growth and office job culture.
- The city is primarily built out. Future new development will occur through redevelopment of existing sites. This makes it very challenging to find available land within or immediately outside of Rockville city limits that would accommodate single-family development.

#### Housing Characteristics<sup>5</sup>

- There were approximately 28,028 total housing units in 2019.
- Of the total housing units, 94% of the units are occupied in 2019.
- Of the occupied units, 55.4% are owner-occupied and 44.6% are renter-occupied in 2019.
- Approximately 2,500 units are affordable (existing housing stock with or without income restrictions) for moderate- or low-income households.

<sup>3</sup> The most current data available.

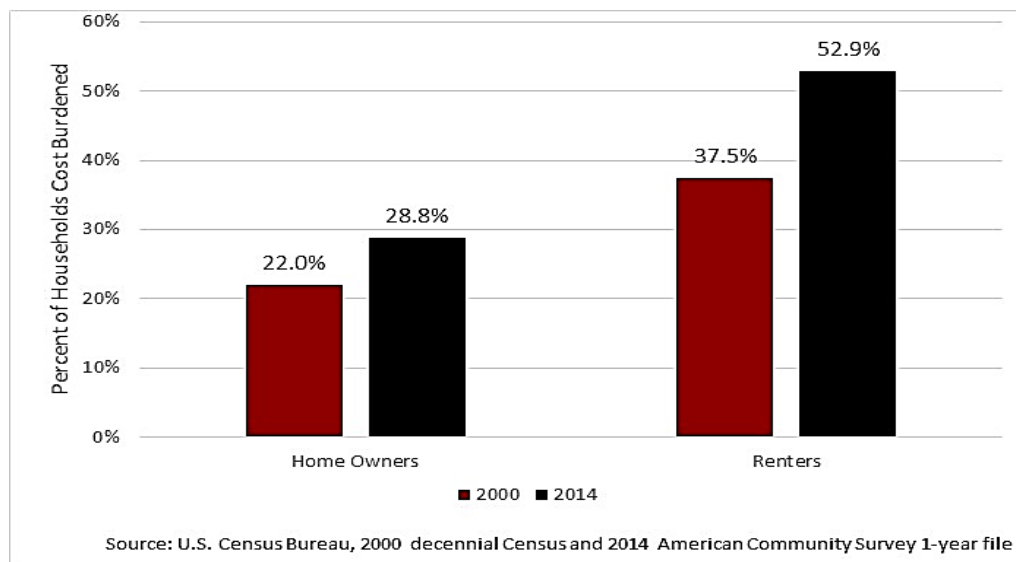
<sup>4</sup> Source: Montgomery County Public Schools, 2019-2020 academic year.

<sup>5</sup>Source: U.S. Census Bureau, 2019. <https://data.census.gov/cedsci/profile?g=1600000US2467675>

- Approximately half of the housing stock was built between 1950 and 1980, and nearly 43% of the stock was built between 1990 and the present.
- Of the renter households, 44.1% of renters spend more than 30% of household income on rent or mortgage payments. Of these rent overburdened households, 80% spend more than 35%.
- The City of Rockville has one of the highest average rents in the County. The average monthly rent in Rockville was \$1,883 in 2019 compared to a Montgomery County average of \$1,788.
- The median home value in 2019 was \$583,100 compared to \$496,900 for Montgomery County.

### Housing Needs

- With Rockville's high cost of housing, there is an ongoing need for more affordable and workforce housing. This is demonstrated by the percentage of households with housing cost burdens — households paying 30% or more of their gross income on mortgage/rent and utilities. Below is an illustration of percent of households who are cost-burdened by income levels. Graphic:



- There are currently about 900 rental units and approximately 450 homeownership units in the Moderately Priced Dwelling Unit (MPDU) program in the City. In December 2021, the control period of 30 years will expire for 109 rental units in the King Farm subdivision.
- An aging population of homeowners on fixed incomes often cannot afford regular maintenance or to address emergency repairs in older single-family homes. Of the 14,172 owner-occupied units, 31% or 4,455 are occupied by households with members 65 and older.
- Fourteen (14) households are currently on the waiting list for CDBG Single-Family Rehabilitation assistance; over the past three grant application cycles, the City has dedicated a larger portion of its CDBG funding to the program to address the needs on the waiting list than it did in prior years.

- Rockville has a high demand for low-income housing through Rockville Housing Enterprises (RHE), the City's Public Housing Authority.
- RHE manages 108 public housing (David Scull and scattered site) units, and 125 households are on the waitlist for these units. They report that there are an average of 12 public housing turnovers per year, and at that rate, it would take nine years to exhaust the current waiting list.
- RHE administers approximately 420 Housing Choice vouchers, and 4,401 households are on the waitlist for the voucher program.

### Federal Requirements

Eligible CDBG activities are governed by federal regulations and requirements. Federal environmental review, federal labor standards (i.e., prevailing, or Davis-Bacon wages) and compliance, lead-based paint regulations, and fair housing requirements may apply depending on the activity proposed. Staff will assist applicants in understanding which, if any, of these requirements will apply to the project.

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## **Mayor and Council History**

This is the first time in this funding cycle that this item has been brought before the Mayor and Council.

The funding application and public hearing announcement was e-mailed to civic associations, homeowners associations, and community organizations, on July 26, 2021. The funding application announcement was e-mailed to the Nonprofit Montgomery network of hundreds of local nonprofit organizations on August 9 and 23, 2021. Public notice announcing the public hearings was published in the *Washington Post* on August 26 and September 2, 2021. As requested by the Mayor and Council in previous years, the City hosted a Housing Providers Forum on August 4, 2021, where housing providers were notified of the upcoming funding cycle and provided with information on application submission process and requirements.

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## **Next Steps**

Funding applications from housing providers are due to the City on September 27, 2021. Applications are reviewed and scored by a cross-departmental staff review committee, which makes funding recommendations to the Mayor and Council. Staff anticipates returning to the Mayor and Council in November with a recommendation. Staff anticipates submitting the grant application to the County in December following the Mayor and Council approval of the application.



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Rob DiSpirito, City Manager

9/8/2021



Mayor & Council Meeting Date: September 13, 2021

Agenda Item Type: Public Hearing

Department: PDS - Comprehensive Planning

Responsible Staff: Jim Wasilak

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## Subject

Public Hearing for Sectional Map Amendment MAP2021-00120, for the North Stonestreet Avenue and Park Road and North/South Stonestreet Avenue Plan Amendment Areas; Mayor and Council of Rockville, Applicants

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## Recommendation

Staff recommends that the Mayor and Council conduct the public hearing.

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## Change in Law or Policy

The adoption of this Map Amendment would change the zones on properties in the Stonestreet Avenue area, as delineated in the application, in accordance with the policies adopted in the related Comprehensive Plan Amendments.

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## Discussion

### Background:

On December 14, 2020, the Mayor and Council authorized the filing of this Sectional Map Amendment (SMA) and its associated Zoning Text Amendment (ZTA). This report is a companion to the associated ZTA report, which includes the details regarding the regulation changes for each zone shown on the SMA. Both applications are the next steps in the process to implement the vision for two comprehensive master plan amendments in the Stonestreet Avenue corridor, as established by the North Stonestreet Avenue Comprehensive Master Plan Amendment, adopted by the Mayor and Council on March 25, 2019, and the Park Road and North/South Stonestreet Avenue Area Comprehensive Master Plan Amendment, adopted July 13, 2020.

### Description:

The Plan Amendments recommended that several sites in the area be rezoned from R-60 to a new or revised Residential Medium Density (RMD) zone (as proposed in the accompanying text amendment) better suited for infill residential use. They also recommended that certain properties currently zoned for mixed-use be rezoned to a different mixed-use zone to encourage redevelopment more in character with the Plan Amendment's vision.

The proposed Sectional Map Amendment would implement the land use and zoning recommendations contained in the Plan Amendments. The following summarizes the proposed zoning changes in the Park Road and North/South Stonestreet Avenue area (see Attachment A):

- Three properties in the 100 block of North Stonestreet Avenue, between North Stonestreet Avenue and the CSX/Metro right-of-way, will be rezoned from MXB (Mixed Use Business) to MXNC (Mixed Use Neighborhood Commercial).
- The properties currently zoned MXB on the east side of North Stonestreet Avenue, between England Terrace and Park Road, will be rezoned from MXB to MXNC.
- Three properties east of the proposed MXNC area fronting on Park Road will be rezoned from R-60 to MXT (Mixed Use Transition).
- The properties fronting on England Terrace, North Grandin Avenue, and Park Road will be rezoned from R-60 to the new RMD-Infill Zone.
- The properties zoned R-60 in the block bounded by Park Road, Grandin Avenue, Reading Terrace and South Stonestreet Avenue will be rezoned from R-60 to the new RMD-Infill Zone.

The following summarizes the proposed zoning changes in the North Stonestreet Avenue area, north of Howard Avenue (see Attachment B):

- The Board of Education properties north of Lincoln Avenue between North Stonestreet Avenue and the CSX/Metro right-of-way will be rezoned from R-60 to the RMD-15 Zone.
- The Board of Education properties south of Lincoln Avenue between North Stonestreet Avenue and the CSX/Metro right-of-way will be rezoned from R-60 to the MXCT (Mixed-Use Corridor Transition) Zone.
- The former Lincoln High School site, most recently used as a church, will remain in the R-60 and HD (Historic District) zones.
- The Board of Education properties that front on North Stonestreet Avenue at the corner of Howard Avenue will be rezoned from R-60 to the MXNC Zone.
- The Board of Education site fronting on Howard Avenue will be rezoned from R-60 to the RMD-10 Zone.
- The Lincoln Park Neighborhood Conservation District boundary will be revised to exclude the properties subject to the SMA, as the conservation district includes standards for single unit detached development only.

Attachment C provides a list of ownership of the properties that will be affected by the zoning changes. All owners were notified of the application and opportunities to learn more about the changes via the virtual meetings set up for that purpose. The surrounding property owners and neighborhood associations have also been notified in accordance with the Zoning Ordinance.

### **Additional Consideration**

In 2007, a Neighborhood Conservation District (NCD) was adopted for the Lincoln Park Neighborhood, including the non-residential properties on both sides of North Stonestreet



Avenue, north of Howard Avenue. The NCD includes regulations that are geared toward single-family detached dwellings on individual lots. With the updated visions that the Plan Amendments established for the subject areas, to accommodate a mix of housing types and potential mixed-use developments, the North Stonestreet Avenue Comprehensive Master Plan Amendment recommended that the subject properties north of Howard Avenue be removed from the boundaries of the Lincoln Park NCD. During the Plan Amendment process, the boundary adjustment was discussed with the Lincoln Park Civic Association, and they have expressed support for the change. The Planning Commission also recommends this change.

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## **Mayor and Council History**

On December 14, 2020, the Mayor and Council authorized the filing of the related Zoning Text and Zoning Map Amendments, which formally initiated the public review process.

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## **Public Notification and Engagement**

Following the filing of the text and map amendments, staff sent written notice to all affected property owners with information about the proposals, the public review process and ways to get involved. In addition, a series of virtual meetings for affected property owners was held via WebEx to provide opportunities for property owners to gain information on the proposed changes and ask questions of staff. The virtual meetings took place on Wednesday, April 7 at 7:00 p.m., Friday, April 16 at 10:00 a.m., and Tuesday, April 20 at 7:00 p.m. Staff also attended the Lincoln Park Civic Association meeting on Saturday, April 10 and the East Rockville Civic Association meeting on Tuesday, April 13 to provide information about the project and the process. Commercial property owners' biggest concern has been whether the new zoning will require owners or tenants to make changes to comply, which it would not. Reactions from affected residential owners have ranged from support to opposition to the zoning change.

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## **Boards and Commissions Review**

On April 28, 2021, staff provided a briefing to the Planning Commission on both the Sectional Map Amendment and the Zoning Text Amendment, and on May 12, 2021, the Planning Commission discussed both items in detail and provided comments to staff. On June 23, staff presented a draft recommendation memo to the Commission, incorporating their comments. The memo was approved unanimously (see Attachment D).

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## **Next Steps**

After the public hearing, staff proposes a Discussion and Instructions, possible Introduction, and adoption session at the September 27, 2021 meeting.

## **Attachments**

- Attachment 11.a: Park Road Area proposed zoning map (PDF)
- Attachment 11.b: BOE and MCPS parcels - proposed zoning map (PDF)
- Attachment 11.c: List of Affected Property Owners (PDF)
- Attachment 11.d: Planning Commission recommendation (PDF)

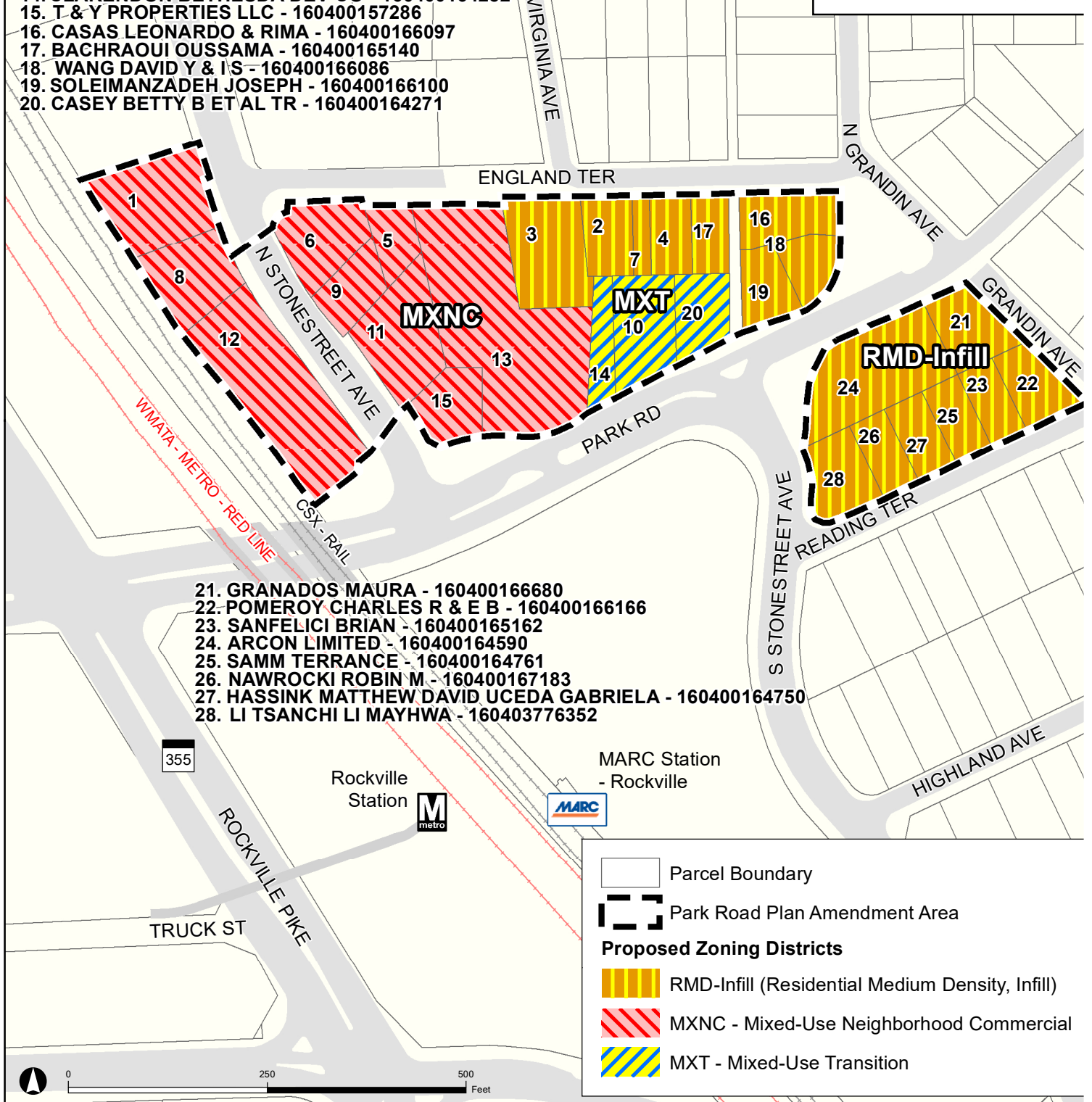


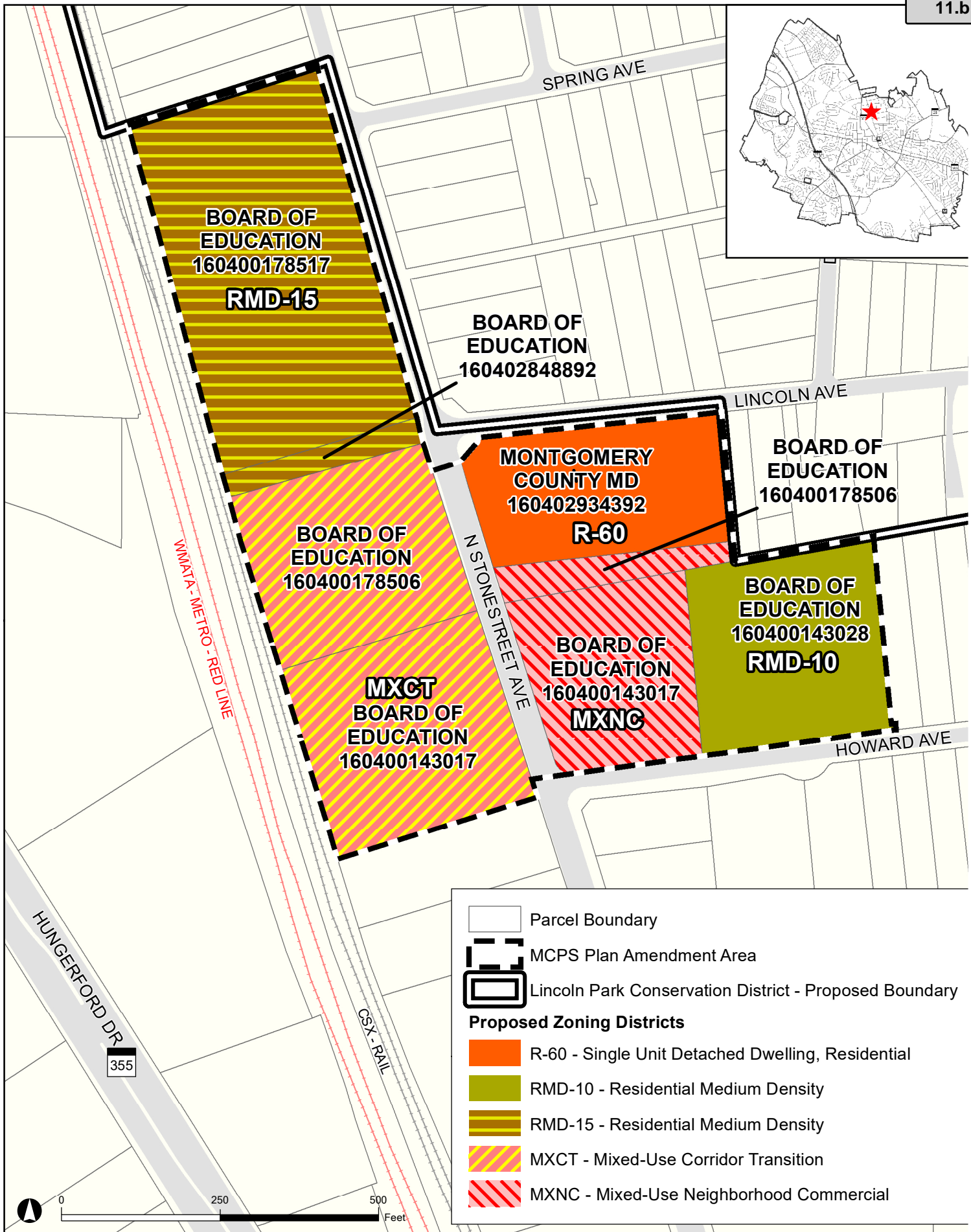
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Rob DiSpirito, City Manager

9/8/2021

1. VASSILAS ANASTASIOS E & VASILIA VASSILAS - 160400155276
2. PITMAN DAVID WILLIAM - 160400166997
3. BATMANGLICH SHAHIN - 160400146487
4. HAMLIN ERIC KNISELY JANE M - 160400164841
5. WOLPOFF CHARLOTTE R ET AL - 160400145357
6. STONESTREET PROPERTIES LLC - 160400155391
7. HAWVERMALE DANIEL - 160400166122
8. VASSILAS ANASTASIOS VALIA & TASOS LLC - 160400149014
9. SCHNEIDER JACOB & D H - 160400158634
10. CASEY BETTY B ET AL TR - 160400164260
11. SCHAEFFER FREDERICK E - 160400148384
12. JONY REALTY OF MARYLAND LLC - 160400149025
13. NAHR FREDERICK L - 160401850387
14. CLARENDON BETHESDA DEV CO - 160400164282
15. T & Y PROPERTIES LLC - 160400157286
16. CASAS LEONARDO & RIMA - 160400166097
17. BACHRAOUI OUSSAMA - 160400165140
18. WANG DAVID Y & I'S - 160400166086
19. SOLEIMANZADEH JOSEPH - 160400166100
20. CASEY BETTY B ET AL TR - 160400164271





Attachment 11.b: BOE and MCPS parcels - proposed zoning map (3683 : Public Hearing for Sectional Map Amendment MAP2021-00120, for the

**PROPERTIES SUBJECT TO THE PROPOSED  
SECTIONAL MAP AMENDMENT**

<b>Address</b>	<b>Owner</b>	<b>Tax Acct. No.</b>	<b>Current Zone</b>	<b>Proposed Zone</b>
610 – 700 Stonestreet Ave.	Board of Education 850 Hungerford Dr., Rockville, MD 20850	16-0400178517	R-60	RMD-15
N/A – Lts. 9-19 England's 2 <sup>nd</sup> Add. To Lincoln Park	Board of Education 850 Hungerford Dr., Rockville, MD 20850	16-0402848892	R-60	RMD-15
570 Lincoln Avenue	Board of Education 850 Hungerford Dr., Rockville, MD 20850	16-0400178506	R-60	MXCT
595 N. Stonestreet Avenue	Board of Education 850 Hungerford Dr., Rockville, MD 20850	16-0400143017	R-60	MXCT
595 N. Stonestreet Avenue	Montgomery County, MD 101 Monroe St. Rockville, MD 20850	16-0402934392	R-60	R-60
570 N. Stonestreet Avenue	Board of Education 850 Hungerford Dr., Rockville, MD 20850	16-0400178506	R-60	MXNC
N/A – Pt Lts. 2-6, inc. 1-5 inc. B England's 2 <sup>nd</sup> Add. To Lincoln Park	Board of Education 850 Hungerford Dr., Rockville, MD 20850	16-0400143017	R-60	MXNC
320 Howard Avenue	Board of Education 850 Hungerford Dr., Rockville, MD20850	16-0400143028	R-60	RMD-10



200 N. Stonestreet Avenue	Anastasios Vassilas, Valia and Tasos, Inc. 200 N. Stonestreet Avenue, Rockville, MD 20850	16-0400155276	MXB	MXNC
N/A – No. of B&O	Anastasios Vassilas, Valia and Tasos, Inc. 200 N. Stonestreet Avenue, Rockville, MD 20850	16-0400149014	MXB	MXNC
100 N. Stonestreet Avenue	Jony Realty of MD, LLC 200 N. Stonestreet Avenue, Rockville, MD 20850	16-0400149025	MXB	MXNC
109 N. Stonestreet Ave.	Stonestreet Properties LLC, 8585 North Bend Rd., Easton, MD 21601	16-0400155391	MXB	MXNC
107 N. Stonestreet Ave.	Jacob and D.H. Schneider 107 N. Stonestreet Ave., Rockville, MD 20850	16-0400158634	MXB	MXNC
103 N. Stonestreet Ave.	Frederick E. Schaeffer 103-105 N. Stonestreet Ave. Rockville, MD 20850	16-0400148384	MXB	MXNC
200 Park Rd.	T&Y Properties 12637 High Meadow Rd. North Potomac, MD 20878	16-0400157286	MXB	MXNC
202 Park Rd.	Frederick Nahr 10518 Edwardian Ln. New Market, MD 21774	16-0401850387	MXB	MXNC

125 England Terr.	Charlotte Wolpoff et al., 7200 Wisconsin Ave., St. 1100 Bethesda, MD 20814	16-0400145357	MXB	MXNC
111 England Terr.	Shahin Batmanglich 111 England Terr. Rockville, MD 20850	16-0400146487	R-60	RMD-Infill
201 England Terr.	David W. Pittman 201 England Terr. Rockville, MD 20850	16-0400166997	R-60	RMD-Infill
203 England Terr.	Daniel Hawvermale 1342 Excalibur La. Sandy Spring, MD 20860	16-0400166122	R-60	RMD-Infill
205 England Terr.	Eric Hamlin & Jane Knisley 205 England Terr. Rockville, MD 20850	16-0400164841	R-60	RMD-Infill
207 England Terr	Oussama Bachraoui 207 England Terr. Rockville, MD 20850	16-0400165140	R-60	RMD-Infill
209 England Terr.	Leonardo & Rima Casas 4920 Redford Rd. Bethesda, MD 20816	16-0400166097	R-60	RMD-Infill
218 Park Road	David & I.S. Wang 11504 Parsippany Terr. North Potomac, MD 20878	16-0400166086	R-60	RMD-Infill
216 Park Road	Joseph Soleimanzadeh 216 Park Rd., Rockville MD 20850	16-0400166100	R-60	RMD-Infill

N/A Park Road	Betty Casey et al Tr. 16803 Crabbs Branch Way Rockville, MD 20855	16-0400164271	R-60	MXT
N/A Park Road	Betty Casey et al Tr. 16803 Crabbs Branch Way Rockville, MD 20855	16-0400164260	R-60	MXT
206 Park Road	Clarendon Bethesda Development Co. % Casey Mgt. 16803 Crabbs Branch Way, Rockville, MD 20855	16-0400164282	R-60	MXT
205 Park Road	Arcon Ltd. 4711 Rosedale Ave. Bethesda, MD 20814	16-0400164590	R-60	RMD-Infill
207 Park Road	Maura Granados 207 Park Rd. Rockville, MD 20950	16-0400166680	R-60	RMD-Infill
304 S. Stonestreet Ave.	Tsanchi & Mayhwa Li 304 S. Stonestreet Ave. Rockville, MD 20850	16-0403776352	R-60	RMD-Infill
204 Reading Terr.	Robin Nawrocki 204 Reading Terr. Rockville, MD 20850	16-0400167183	R-60	RMD-Infill
206 Reading Terr.	Matthew Hassink & Gabriela Uceda 206 Reading Terr. Rockville, MD 20850	16-0400164750	R-60	RMD-Infill
208 Reading Terr.	Terrance Samm 15 Indian Spring Dr. Silver Spring, MD 20901	16-0400164761	R-60	RMD-Infill



210 Reading Terr.	Brian Sanfelici 210 Reading Terr. Rockville, MD 20850	16-0400165162	R-60	RMD-Infill
212 Reading Terr.	Charles & E.B. Pomeroy 212 Reading Terr. Rockville, MD 20850	16-0400166166	R-60	RMD-Infill



City of Rockville

## MEMORANDUM

June 23, 2021

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendations on:

- Zoning Text Amendment TXT2021-00258, for changes to the Residential Medium Density (RMD) Zones and the Creation of a New RMD-Infill Zone.
- Sectional Map Amendment MAP2021-00120 to apply the zoning recommended by the Comprehensive Master Plan Amendments for the North Stonestreet Ave and Park Road and North/South Stonestreet Ave Areas.

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At our meeting on June 23, 2021, the Planning Commission approved the comments in this memorandum for the proposed Zoning Text Amendment (ZTA) Application TXT2021-00258 for certain changes to the Residential Medium Density (RMD) Zones and the creation of a new RMD-Infill Zone to implement the Comprehensive Master Plan Amendments for the North Stonestreet Avenue and Park Road and the North/South Stonestreet Avenue Areas and for Sectional Map Amendment MAP2021-00120 to apply the recommended zoning for those areas.

The comments are based on an initial discussion after a staff briefing to the Planning Commission on April 28 and a more extensive discussion and deliberation on May 12. The Planning Commission voted 4-0 to recommend for approval to the Mayor and Council the draft ZTA and SMA, along with several items for further consideration as outlined below.

### PLANNING COMMISSION RECOMMENDATIONS

#### Zoning Text Amendment

##### 1) **Approval Process for Units in the RMD-Infill Zone: Building Permit versus Site Plan**

The Planning Commission discussed whether proposed development in the RMD-Infill Zone (two-, three- and four-unit dwellings) should be required to adhere to a site plan

review process or, as with single-unit detached and semi-detached residential dwellings, the building permit review process would be sufficient. Staff recommended allowing development in the RMD-infill zone to be reviewed under the building permit review process, suggesting that the specific requirements could be implemented through the building review process (architectural design, etc.). Staff's concern was that requiring site plan review could disincentivize these types of developments due to the added time and cost to the project.

***Planning Commission Comments and Recommendation:***

The Planning Commission discussed both review procedures and contemplated the potential added cost and time of the site plan process versus having an added review to ensure compliance with applicable regulations. Ultimately, the Planning Commission recommended that duplexes and triplexes be reviewed under building permit procedures, like single-unit detached residential dwellings, but that fourplexes should follow site plan review approval procedures. The Planning Commission felt that fourplexes could be developed at a larger scale than the other developments and that further review of proposals would help to ensure appropriate transitions to adjacent homes.

**2) Townhouses and Rowhouses**

The Planning Commission discussed whether the proposed RMD-Infill Zone should include the potential for townhouse or rowhouse development. In the current text amendment draft, neither is a permitted use. Staff recommended allowing townhouses in the RMD-Infill Zone but with added design criteria to facilitate rowhouse scaled construction. For example, additional regulations could require that townhouses include a front porch or stoop, that no internal vehicle parking be permitted within the main building (for example, no front-loaded garages would be allowed, as is common with many new townhouses) and if off-street surface parking is provided, it must be loaded in the rear yard. Potential regulations could be structured to include the following:

Townhouse Dwellings are permitted, subject to the following conditions:

1. The minimum lot width is 20 feet;
2. The minimum lot area is 1,500 square feet;
3. New main buildings must front on a public street and include a front porch, stoop, or uncovered stoop measuring a minimum depth of 5 feet facing the public street;
4. No internal vehicular parking is permitted within the main building;
5. If off-street surface parking is provided, it must be located in the rear yard and only be accessible from the rear of the property.

The other option was to create a new 'Rowhouse' definition in the Zoning Ordinance and update the use table to reflect rowhouses as a permitted use within the RMD-Infill Zone. Staff explained that pursuing this option would most likely require expanding the scope

of this text amendment given that rowhouses would also be allowed in other residential zones not currently included as part of this text amendment. Staff further explained that adding design criteria (option 1) within the RMD-Infill Zone to the already existing 'Townhouse Dwelling' use would provide an interim solution within the parameters of this specific amendment, and, once a more comprehensive update to the Zoning Ordinance is conducted, staff could include a rowhouse dwelling use definition for city-wide application within applicable zoning classifications.

***Planning Commission Comments and Recommendation:***

The Planning Commission agreed that rowhouses should be a permitted use within the RMD-Infill Zone, however, there was much discussion about how to permit them within the Zoning Ordinance. The Planning Commission preferred the first option of creating a new 'Rowhouse' use and definition in the Zoning Ordinance and updating the use table to reflect that use as a permitted use within the RMD-Infill Zone. Commissioners did, however, understand the constraints of the existing text amendment and the possibility of addressing the issue through adding design criteria to the Townhouse Dwelling use within the RMD-Infill Zone.

**3) Setbacks**

The Planning Commission discussed whether to reduce side yard setbacks from 8 feet (current proposal) to 5 feet to provide greater flexibility with building design for proposed infill developments. Staff recommended reducing the setbacks to provide this flexibility; spacing between buildings would still be required, but the reduced setback would allow for the potential for more compact development in areas designated for such.

***Planning Commission Comments and Recommendation:***

The Planning Commission generally agreed with reducing the minimum side setback to 5 feet but asked whether a condition could also be added to the side setback standard that provided flexibility in the distribution of the setbacks if a public benefit was provided. For example, allowing a zero-side setback on one side of the building and a minimum of 10 feet on the other side if a mature tree could be saved or community open space was to be provided.

**4) Garages**

The Planning Commission discussed whether garages or carports in the RMD-Infill Zone should be required to be set back (for example, a minimum of 5 feet) behind the front façade of the main building. Staff recommended including this requirement to de-emphasize vehicle storage, particularly in transit proximate areas, and as a potential design solution to break up the mass and bulk of a singular building.

***Planning Commission Comments and Recommendation:***

The Planning Commission supported the requirement to have garages set back from the

front façade of the building.

### 5) Parking

The Planning Commission discussed whether to reduce parking requirements in the RMD-Infill Zone, if certain criteria are met, such as if a project is within a certain proximity to the Rockville Metro Station. Staff recommended considering a minimum requirement of 1 space per 2 dwelling units as a base amount, with more provided if the builder finds that additional parking is needed. Less parking can translate into lower construction costs, helping to meet plan affordability goals. Further, many of the areas where the RMD-Infill Zone will be applied are transit proximate.

#### ***Planning Commission Comments and Recommendation:***

The Planning Commission was generally supportive of reduced parking requirements, particularly for projects near transit, however, Commissioners wanted to make sure that any adjustments to Townhouse and/or Rowhouse type dwellings were appropriately considered.

### 6) Artisanal Craft Production Definition

The Planning Commission reviewed the proposed definition for the new Artisanal Craft Production use and provided suggestions to expand the language to include food production and emphasis on the entrepreneurial aspects of the use.

#### ***Planning Commission Comments and Recommendation:***

The Planning Commission supported revising the draft language to include the above comments.

### 7) Porches and Balconies

The Planning Commission discussed encouraging or requiring porches and/or balconies for new residential units to facilitate more connected and walkable neighborhoods and promote outdoor gathering spaces.

#### ***Planning Commission Comments and Recommendation:***

The Planning Commission supported incorporating porches and/or balconies into new development but did not conclude whether they should be requirements or encouraged.

## **Sectional Map Amendment**

### 1) Boundary Amendment to the Lincoln Park Neighborhood Conservation District

In 2007, a Neighborhood Conservation District (NCD) was adopted for the Lincoln Park Neighborhood, including the non-residential properties on both sides of North Stonestreet Avenue, north of Howard Avenue. The NCD includes regulations that are



Planning Commission Recommendation  
TXT2021-00258 and MAP2021-00120  
June 23, 2021

geared toward single-unit detached residential development on individual lots. With the updated visions that the Plan Amendments established for the subject areas, to accommodate a mix of housing types and potential mixed-use developments, the North Stonestreet Avenue Comprehensive Master Plan Amendment recommended that the subject properties north of Howard Avenue be removed from the boundaries of the Lincoln Park Neighborhood Conservation District. During the Plan Amendment process, the boundary adjustment was discussed with the Lincoln Park Civic Association, and they expressed support for the change.

***Planning Commission Comments and Recommendation:***

The Planning Commission was supportive of the boundary adjustment as recommended by the North Stonestreet Avenue Comprehensive Master Plan Amendment.

Therefore, on a motion by Commissioner Tyner, seconded by Commissioner Goodman, the Planning Commission recommended approval of Text Amendment TXT2021-00258 and Sectional Map Amendment MAP2021-00120, with the additional recommendations as outlined above. The vote was 4-0 in favor, with Chair Pitman and Commissioners Goodman, Pearson and Tyner in favor, and Commissioners Littlefield, Miller and Nunez absent for the vote.

Planning Commission Recommendation  
TXT2021-00258 and MAP2021-00120  
June 23, 2021

**c.c.:** Robert DiSpirito, City Manager  
Ricky Barker, Director, PDS  
Jim Wasilak, Chief of Zoning, PDS



Mayor & Council Meeting Date: September 13, 2021

Agenda Item Type: Public Hearing

Department: PDS - Comprehensive Planning

Responsible Staff: Jim Wasilak

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## Subject

Public Hearing for Zoning Text Amendment TXT2021-00258, for Changes to Setback and Open Space Requirements for the Residential Medium Density (RMD) Zones, the Creation of a New RMD-Infill Zone to Implement the Comprehensive Plan Amendments for the North Stonestreet Avenue and Park Rd Areas; Mayor and Council of Rockville, Applicant

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## Recommendation

Staff recommends that the Mayor and Council conduct the public hearing.

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## Change in Law or Policy

If adopted, the text amendment would modify certain sections of the Zoning Ordinance to implement the zoning recommendations of the North Stonestreet Avenue Comprehensive Plan Amendment and the Park Road and North/South Stonestreet Avenue Area Comprehensive Plan Amendment.

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## Discussion

### Background

On December 14, 2020, the Mayor and Council authorized the initiation of this Zoning Text Amendment (ZTA) and its associated Sectional Map Amendment (SMA). This report is a companion to the associated SMA report which includes the zoning map changes that will allow these regulations to apply to certain properties. Both applications are the next steps in the process to implement the vision for two comprehensive master plan amendments in the Stonestreet Avenue corridor, as established in the North Stonestreet Avenue Comprehensive Master Plan Amendment, adopted by the Mayor and Council on March 25, 2019, and the Park Road and North/South Stonestreet Avenue Area Comprehensive Master Plan Amendment, adopted July 13, 2020.

The Stonestreet Plan Amendments provided guidance for redevelopment in the subject areas, including the following goals:

- A range of new, well-designed housing types, ensuring compatibility in scale with adjacent single-family residential homes in Lincoln Park and East Rockville with a

balanced mix of unit sizes and price points, accessible to existing residents, as well as to new buyers or renters.

- New housing and other non-residential development that strengthen the surrounding neighborhoods.
- An upgraded pedestrian environment including enhanced sidewalks on both sides of North Stonestreet Ave featuring landscaping, street trees and pedestrian-scale lighting.
- New, well-connected and publicly-accessible community gathering and civic spaces.
- Redevelopment that takes advantage of transit proximity, is well-connected, and that transitions appropriately to nearby residences.

Informed by the proposed land use designations under development as part of the Rockville 2040 Comprehensive Plan Update, the Plan Amendments established two new residential land use categories – Residential Attached and Residential Flexible, to allow a variety of housing types including rowhouses, duplexes, triplexes, fourplexes and multiple-unit buildings, as designated by the proposed land use and zoning maps included in both Plan Amendments.

To implement the Plan Amendments and these new land use categories, changes to existing zones within the Zoning Ordinance are required. A zoning map amendment is also needed to apply the new and revised zones to certain properties within the Stonestreet Corridor Study Area (for example, the properties owned by the Board of Education/MCPS and the properties along Park Road). If these changes are approved, these properties can be redeveloped consistent with Plan Amendment recommendations and in accordance with the new zones.

While changes are also proposed for properties currently zoned Mixed-Use Business (MXB) to different mixed-use zones to encourage redevelopment more aligned with the Plan Amendments' visions, a central recommendation of the Plan Amendments is the rezoning of certain R-60 (Single Unit Detached Dwelling) residential sites to zones more encouraging of infill development with a range of housing types. To implement this approach, modifications to the City's current Residential Medium Density (RMD) zones, and a new residential infill zone, meet the Plan Amendment recommendations since they allow for the types of residential uses anticipated in the land use plans.

The proposed zoning text amendment (Attachment A) includes several changes to Article 11, Residential Medium Density (RMD) zones. The amendment revises the permitted land uses and development standards in the RMD-10, RMD-15, and RMD-25 zones. A new RMD zone, the Residential Medium Density - Infill (RMD-Infill) zone, is introduced to accommodate smaller-scale infill residential development. Accompanying changes are found in Article 13 (Mixed-use Zones) and Article 12 (Industrial Zones), as well as Article 16 (Parking and Loading). The amendment also proposes new definitions and use permissions for Artisanal Craft Production and Two-Unit Detached Dwellings.

#### **Revisions to Existing RMD Zones as Authorized by the Mayor and Council**

While helpful, the existing RMD zones nonetheless have limitations that prevent them from fulfilling the Plan Amendment visions. Features of the existing RMD zones appear more aligned

with suburban development on large sites. For instance, the RMD-10 Zone, although it allows for other low-density residential uses, functions predominately as a townhouse zone with a maximum density of 10 units per acre and large perimeter setbacks. The RMD-15 and RMD-25 Zones require at least 1- and 2-acres, respectively, of land area to initiate development.

The proposed text amendment is intended to refresh these zones by updating setbacks to align more closely with current residential development patterns, establishing open space requirements, and allowing greater flexibility in the mix of housing types better suited to more urban infill settings. The permitted maximum residential density in each zone would remain unchanged. Following is a summary of the proposed RMD revisions as originally authorized by the Mayor and Council (see attached amendment for full details):

- Attached dwellings and multiple dwelling units (subject to conditions) would be permitted in the RMD-10 zone, and two-unit detached dwellings would be allowed in all RMD zones, to increase housing options.
- The setbacks from a public street are revised to be reduced to 20 feet in the RMD-10 Zone and 15 feet in the RMD-15 Zone to allow for more street presence. However, if there is an established setback from the street, development in these zones must adhere to it.
- Side yards are established at 8 feet side and 20 feet rear in the RMD-10 Zone, and 8 feet side and 15 feet rear in the RMD-15 Zone, with no internal setbacks. The setbacks in the RMD-25 Zone remain unchanged.
- The special provisions require that single-unit detached dwellings must comply with the R-60 Zone standards and any relevant design guidelines.
- Height transition standards would require a step-down in height for RMD-25 developments adjacent to residential zones with existing low-density residential uses.

### **New RMD-Infill Zone**

The text amendment also proposes to create a new zone specifically targeting smaller infill residential sites to further implement the Plan Amendment recommendations. The RMD-Infill zone allows a gentle increase in density from the existing R-60 Zone by permitting a broader mix of housing types while also limiting both scale and intensity. Single-unit detached dwellings, semi-detached, two-unit detached dwellings, and multiple-unit development would be permitted in the zone. However, consistent with recommendations in the Plan Amendments, traditional attached dwellings and townhouses would be discouraged in order to promote a broader mix of infill housing types. As discussed below, an option could be provided for non-traditional townhomes or row houses.

The RMD-Infill zone encourages development that is compatible with its neighboring low-density residential uses in several ways. While a range of housing types would be permitted, the number of units permitted on site are only allowed proportionate to property size (2,000 square feet of tract area per dwelling unit). For example, a 4,000 square foot property could be improved with a two-unit detached dwelling, whereas a 6,000 square foot property would allow a multiple-unit dwelling of 3 units. The zone would cap the number of residential units



permitted on any single lot to no more than 4 dwelling units in order to moderate the intensity of residential use. The dwelling unit cap is intended to fulfill the Plans' intent to allow smaller-scale infill development that is contextually appropriate. There would be less incentive to consolidate or maintain larger lots due to the dwelling unit limitation; rather, it would promote a neighborhood scale of development.

*Examples of RMD-Infill Dwelling Unit Allowances*

Tract Size	Dwelling Units Permitted Per Lot
4,000 square feet	2
5,000 square feet	2
6,000 square feet	3
8,000 square feet	4
10,000 square feet	4
	(*Max permitted # of units per lot)

As to building scale and design, building height would be limited to 35 feet, matching the current R-60 Zone maximum. Yard setbacks would also be reflective of existing R-60 standards, with minimum 8-foot side yards, 20-foot rear yards, and a slightly reduced front yard standard of 20 feet. Architectural standards are intended to ensure consistent dwelling orientation for interior lots and attractive façades on corner lots. Parking location requirements and front impervious surface maximums also aim to preserve public-facing front yards as green areas.

The following is a summary of the proposed new zone:

1. Single-unit detached dwellings, semi-detached, two-unit detached dwellings, and multiple-unit development would be permitted, while attached dwellings and townhouses would not be allowed, as authorized.
2. Dwelling units would be limited to 2,000 square feet of tract area per dwelling unit, but no more than 4 dwelling units per lot.
3. Building heights are limited to 35 feet to the midpoint of the gable.
4. Side yard minimums are established at 8 feet on the side, 20 feet in the rear, and 20 feet in the front.
5. The minimum lot width and lot area in the zone are 40 feet and 4,000 square feet, respectively.
6. For multiple-unit dwellings, parking would be required to be located or accessed in the rear yard and screening requirements would apply. Parking ratios for multiple-unit dwellings would be set at a minimum of 1 per dwelling unit, slightly reducing the 1.5 spaces per unit standard for buildings containing units with 2 or more bedrooms, to

avoid mandating excessive parking on the small sites (additional parking could still be voluntarily provided).

7. Architectural standards and maximum impervious surface standards would be applied to front facades and yards, respectively.
8. The special provisions require that single-unit detached dwellings must comply with R-60 Zone standards and any relevant design guidelines.

### **Other Proposed Revisions**

Other changes are proposed to different sections of the Zoning Ordinance, including the following:

- The Table of Contents is revised to reflect the new terminology and sequence of section numbers.
- A new definition, Artisanal Craft Production, is proposed to be added, reflecting the Plan Amendments' recommendations to allow a wider range of local business opportunities. The use would be permitted in both the I-L (Light Industrial) and I-H (Heavy Industrial) zones as well as the MXCD, MXE, MXB and MXNC zones.
- A new definition of a two-unit detached dwelling is proposed to allow a development type such as stacked duplexes (which are two dwelling units arranged one above the other, each with an entry from the street), which is consistent with the Plan Amendments' recommendations for more flexibility in housing options, and currently absent in the Zoning Ordinance.
- A technical change is proposed to the height standard for the MXNC zone.

The companion Sectional Map Amendment that accompanies this text amendment will apply the revised zones to the properties recommended in the Plans. Since the revisions to the zones give more flexibility and slightly increases the effective density, there should be no nonconformities created as a result.

### **Potential Revisions and Planning Commission Recommendations**

The summaries in the previous section and the attached amendment (Attachment A) reflect what was presented to the Mayor and Council at the time of authorization. Since that time, staff further analyzed the proposals and conducted additional research and outreach to affected property owners and neighborhood groups. In addition, Planning Commissioners provided comments to staff at the Commission meetings on April 28 and May 12 when recommendations were further discussed.

At the meeting on May 12, staff presented multiple issues for further consideration by the Planning Commission. Below is a summary of those issues, as well as other topics raised by Commissioners, followed by a summary of the Planning Commission's recommendation. See also the Planning Commission recommendations memo (Attachment B).

#### **1) Approval Process for Units in the RMD-Infill Zone: Building Permit versus Site Plan**

The Planning Commission discussed whether proposed development in the RMD-Infill

Zone (two-, three- and four-unit dwellings) should be required to adhere to a site plan review process or, as with single-unit detached and semi-detached residential dwellings, the building permit review process would be sufficient. Staff recommended allowing development in the RMD-infill zone to be reviewed under the building permit review process, suggesting that the specific requirements could be implemented through the building review process (architectural design, etc.). Staff's concern was that requiring site plan review could disincentivize these types of developments due to the added time and cost to the project.

***Planning Commission Recommendation:***

The Planning Commission discussed both review procedures and contemplated the potential added cost and time of the site plan process, versus having an added review to ensure compliance with applicable regulations. Ultimately, the Planning Commission recommended that duplexes and triplexes be reviewed under building permit procedures, like single-unit detached residential dwellings, but that fourplexes should follow site plan review approval procedures. The Planning Commission felt that fourplexes could be developed at a larger scale than the other developments and that further review of proposals would help to ensure appropriate transitions to adjacent homes.

**2) Townhouses and Rowhouses**

The Planning Commission discussed whether the proposed RMD-Infill Zone should include the potential for townhouse or rowhouse development. In the text amendment as authorized, neither is a permitted use. Staff recommended allowing townhouses in the RMD-Infill Zone, but with added design criteria to facilitate rowhouse-scaled construction. For example, additional regulations could require that townhouses include a front porch or stoop, that no internal vehicle parking be permitted within the main building (for example, no front-loaded garages would be allowed, as is common with many new townhouses), and if off-street surface parking is provided, it must be located in the rear yard. Potential regulations could be structured to include the following:

Townhouse Dwellings are permitted, subject to the following conditions:

1. The minimum lot width is 20 feet;
2. The minimum lot area is 1,500 square feet;
3. New main buildings must front on a public street and include a front porch, stoop, or uncovered stoop measuring a minimum depth of 5 feet facing the public street;
4. No internal vehicular parking is permitted within the main building;
5. If off-street surface parking is provided, it must be located in the rear yard and only be accessible from the rear of the property.

The other option was to create a new 'Rowhouse' definition in the Zoning Ordinance and update the use table to reflect rowhouses as a permitted use within the RMD-Infill Zone. Staff explained that pursuing this option would most likely require expanding the

scope of this text amendment given that rowhouses would also be allowed in other residential zones that are not currently included as part of this text amendment. Staff further explained that adding design criteria (option 1) within the RMD-Infill Zone to the already existing 'Townhouse Dwelling' use would provide an interim solution within the parameters of this specific amendment, and, once a more comprehensive update to the Zoning Ordinance is conducted, staff could include a rowhouse dwelling use definition for city-wide application within applicable zoning classifications.

***Planning Commission Recommendation:***

The Planning Commission agreed that rowhouses should be permitted within the RMD-Infill Zone, however, there was much discussion about how to permit them within the Zoning Ordinance. The Planning Commission preferred the first option of creating a new 'Rowhouse' use and definition in the Zoning Ordinance, and updating the use table to reflect that use as a permitted use within the RMD-Infill Zone. Commissioners did, however, understand the constraints of the existing text amendment and the possibility of addressing the issue instead through adding design criteria to the Townhouse Dwelling use within the RMD-Infill Zone.

**3) Setbacks**

The Planning Commission discussed whether to reduce side yard setbacks from 8 feet (current proposal) to 5 feet to provide greater flexibility with building design for proposed infill developments. Staff recommended reducing the setbacks to provide this flexibility; spacing between buildings would still be required, but the reduced setback would allow for the potential for more compact development in areas so designated.

***Planning Commission Recommendation:***

The Planning Commission generally agreed with reducing the minimum side setback to 5 feet but asked whether more flexibility could also be added to the side yard setback standard in the distribution of the setbacks if a public benefit was provided. For example, allowing a zero-side setback on one side of the building and a minimum of 10 feet on the other side if a mature tree could be saved or community open space was to be provided.

**4) Garages**

The Planning Commission discussed whether garages or carports in the RMD-Infill Zone should be required to be set back, up to 5 feet, behind the front façade of the main building. Staff recommended including this requirement to de-emphasize vehicle storage, particularly in transit-proximate areas, and as a potential design solution to break up the mass and bulk of a singular building.

***Planning Commission Comments and Recommendation:***

The Planning Commission supported the requirement to have garages set back from the front façade of the building.

### 5) **Required Parking**

The Planning Commission discussed whether to reduce parking requirements in the RMD-Infill Zone, if certain criteria are met, such as if a project is within a certain proximity to the Rockville Metro Station. Staff recommended considering a minimum requirement of 1 space per 2 dwelling units as a base amount, with more provided if the builder finds that additional parking is needed. Less parking can translate into lower construction costs, helping to meet plan affordability goals. Further, many of the areas where the RMD-Infill Zone will be applied are transit proximate.

#### ***Planning Commission Recommendation:***

The Planning Commission was generally supportive of reduced parking requirements, particularly for projects near transit; however, Commissioners wanted to make sure that any adjustments to Townhouse and/or Rowhouse type dwellings were appropriately considered.

### 6) **Artisanal Craft Production Definition**

The Planning Commission suggested expansion of the language to include food production and emphasis on the entrepreneurial aspects of the use.

#### ***Planning Commission Recommendation:***

The Planning Commission supported revising the draft language to include these comments.

### 7) **Porches and Balconies**

The Planning Commission discussed encouraging or requiring porches and/or balconies for new residential units to facilitate more connected and walkable neighborhoods and promote outdoor gathering spaces.

#### ***Planning Commission Recommendation:***

The Planning Commission supported incorporating porches and/or balconies into new development, but did not conclude whether they should be requirements or encouraged.

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## **Mayor and Council History**

The Mayor and Council authorized the filing of both the Zoning Text Amendment and Zoning Map Amendment on December 14, 2020, which formally initiated the public review process.

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## **Public Notification and Engagement**

Following the filing of the text and map amendments, staff sent written notice to all affected property owners with information about the proposals, the public review process, and ways to get involved. In addition, several virtual meetings for affected property owners were held via WebEx to provide opportunities for property owners to gain information on the proposed changes and ask questions of staff. The virtual meetings took place on Wednesday, April 7 at



7:00 p.m., Friday, April 16 at 10:00 a.m., and Tuesday, April 20 at 7:00 p.m. Staff also attended the Lincoln Park Civic Association meeting on Saturday, April 10 and the East Rockville Civic Association meeting on Tuesday, April 13 to provide information about the project and the process. Commercial property owners' biggest concern has been whether the new zoning will require owners or tenants to make changes, which it would not. Reactions from affected residential owners have ranged from support to opposition to the zoning change.

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### **Boards and Commissions Review**

On April 28, 2021, staff provided a briefing to the Planning Commission on both the Sectional Map Amendment and the Zoning Text Amendment, and on May 12, 2021, the Planning Commission discussed both items in detail and provided comments to staff. A summary of the Commission's discussion is included above. Staff returned to the Commission on June 23, 2021 with a draft memo containing the Commission's recommendation. The Commission approved it unanimously.

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### **Next Steps**

After the public hearing, staff proposes discussion and instruction, possible Introduction, and adoption at the September 27, 2021 meeting.

### **Attachments**

- Attachment 12.a: Text Amendment as Authorized (PDF)  
Attachment 12.b: Planning Commission recommendation (PDF)



Rob DiSpirito, City Manager

9/8/2021

ATTACHMENT TO APPLICATION  
TO THE CITY OF ROCKVILLE FOR A  
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strike throughs~~ indicate text to be deleted; \* \* \* indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

**I. Amend the Table of Contents as follows:**

**Article 11 – Residential Medium Density Zones**

- 25.11.01 – Purpose
- 25.11.02 – Zones Established
- 25.11.03 – Land Use Tables
- 25.11.04 – Development Standards
- 25.11.05 – Special ~~Regulations~~ Provisions for Development in the RMD-~~10~~-Infill Zone
- 25.11.06– Special Provisions for ~~Townhouse~~ Development in the RMD-10 Zones
- 25.11.07 – Special Provisions for Development in the RMD-15 Zone
- 25.11.08 – Special Provisions for Development in the RMD-25 Zone
- 25.11.~~07~~9 – Process for Approval
- 25.11.~~08~~10 – Accessory Uses and Structures
- 25.11.~~09~~11 – Nonconformities
- 25.11.~~10~~12 – Parking and Loading Requirements
- 25.11.~~11~~13 – Landscaping and Buffer Requirements
- 25.11.~~12~~14 – Signs

**II. Amend Article 3 - “Definitions, Terms of Measurement and Calculations”, as follows:**

**25.03.02 – Words and Terms Defined**

\* \* \*

*Artisanal Craft Production:* The manufacture and production of specialty products which involve a substantial degree of hand work. Examples of such products include, but are not limited to, pottery, art glass, custom furniture, jewelry, and similar products.

\* \* \*

*Dwelling Unit* - A building or portion ...

\* \* \*

**6. Dwelling, Two Unit Detached** - A building containing two (2) single dwelling units on one lot. The building is entirely separated from any other building or structure on all sides. The units must share a common wall or common floor/ceiling. The term does not include accessory apartments.

**67. Dwelling, Townhouse** - One (1) of a group ...

\* \* \*

### III. Amend Article 11, “Residential Medium Density Zones”, as follows:

#### 25.11.02 – Zones Established

Type of Zone	Distinguishing Feature	Name of Zone
<u>Residential single unit (detached and semi-detached only), two unit detached, and multiple-unit dwellings</u>	<u>Allows single unit (detached and semi-detached only) detached dwellings, two unit detached dwellings, and multiple-unit residential dwellings of one unit per 2,000 square feet of tract area, up to a maximum of four dwelling units per lot.</u>	<u>Residential Medium Infill (“RMD-Infill”)</u>
Residential single unit (detached, semi-detached, and attached), <u>two unit, and multiple-unit dwellings</u>	20,000 square feet minimum tract area; Allows single-unit detached, semi-detached, <del>and</del> townhouses, <u>two unit, and multiple-unit residential dwellings</u> up to 10 d.u./ac.	Residential Medium Density (“RMD-10”)
Residential single unit, <u>two unit</u> , and multiple-unit dwellings	1-acre minimum tract area; Allows detached, attached, <u>two unit</u> , and multiple-unit residential dwellings up to 15 d.u./ac.	Residential Medium Density (“RMD-15 ”)
Residential single unit, <u>two unit</u> , and multiple-unit dwellings	2-acre minimum tract area; Allows detached, attached, <u>two unit</u> , and multiple-unit residential dwellings up to 25 d.u./ac.	Residential Medium Density (“RMD-25”)

#### 25.11.03 – Land Use Tables

The uses permitted in the Residential Medium Density Zones are shown in the table below. Uses are subject to applicable conditions of site plan approval, and all special exceptions are subject to the requirements of Article 15.

	Uses	Zones				Conditional requirements or related regulations
		<u>Residential Medium Density RMD-Infill</u>	Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	
a. Residential uses	Dwelling, attached	<u>N</u>	<del>N</del> <u>P</u>	P	P	
	Dwelling, semi-detached	<u>P</u>	P	P	P	

	Uses	Zones				Conditional requirements or related regulations
		<u>Residential Medium Density RMD-Infill</u>	Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	
	Dwelling, single unit detached	<u>C</u>	C	C	C	<u>Conditional use subject to the development standards of the R-60 Zone; Conditional use subject to the development standards in Sections 25.11.05 through 25.11.08.</u>
	Dwelling, two unit detached	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
	Dwelling, multiple-unit	<u>C</u>	<del>N</del> <u>C</u>	P	P	<u>Conditional use subject to the development standards in Section 25.11.06</u>
	Dwelling, Townhouse	<u>N</u>	P	P	P	
b. Swimming pool, accessory		<u>P</u>	P	P	P	
c. Home-based business enterprise	No impact	<u>P</u>	P	P	P	
	Major	<u>S</u>	S	S	S	See Secs 25.09.07 and 25.15.02.h
d. Institutional uses	Adult day care	<u>S</u>	S	S	S	
	Charitable or philanthropic office	<u>S</u>	S	S	S	See Sec. 25.15.02.e
	Child care home up to 8 children	<u>P</u>	P	P	P	
	Child care center:					Special exception subject to Sec. 25.15.02.f
	9 – 12 children	<u>S</u>	P	P	P	
	More than 12 children	<u>S</u>	S	S	S	
	Educational institution, private	<u>S</u>	S	S	S	See Sec. 25.15.02.g
	Housing for senior adults and persons with disabilities	<u>S</u>	S	P	P	Special exception subject to Sec. 25.15.02.j
	Life care facility	<u>S</u>	S	S	S	See Sec. 25.15.02.k
	Nursing home	<u>S</u>	S	S	S	See Sec. 25.15.02.i
e. Miscellaneous uses	Places of worship	<u>P</u>	P	P	P	
	Private club	<u>N</u>	S	N	N	
	Public utility building and structure	<u>S</u>	S	S	S	See Sec. 25.15.02.n
	Publicly-owned or publicly-operated building and use, excluding sanitary landfill	<u>C</u>	C	C	C	Conditional use subject to a Level <del>32</del> Site Plan (Sec. 25.07.05)

	Uses	Zones				Conditional requirements or related regulations
		<u>Residential Medium Density RMD-Infill</u>	Residential Medium Density RMD-10	Residential Medium Density RMD-15	Residential Medium Density RMD-25	
<b>Miscellaneous uses (con't)</b>	Wireless communication facility entirely within an existing building or on the roof or side of a building, or attached to an existing structure	<u>C</u>	C	C	C	Conditional use subject to the requirements of Sec. 25.09.08
	Wireless communication facility not located entirely within an existing building or on the roof or side of a building, or attached to an existing structure, including, but not limited to antennas on a freestanding ground mounted antenna support structure	<u>S</u>	S	S	S	See Secs. 25.09.08 and 25.15.02.s
<b>f. Temporary uses</b>	Christmas tree sales	<u>C</u>	C	C	C	Conditional use subject to the requirements of Sec. 25.09.04
	Garden produce	<u>C</u>	C	C	C	
	Portable Storage Units	<u>C</u>	C	C	C	
	Temporary building or yard for construction materials or equipment	<u>C</u>	C	C	C	
	Temporary carnival	<u>C</u>	C	C	C	
	Temporary office or model home	<u>C</u>	C	C	C	
<b>g. Accessory uses</b>		<u>P</u>	P	P	P	See Secs. 25.09.01, 02 & 03
<b>h. Commercial uses</b>	Consumable goods to be used in the home	<u>N</u>	N	C	C	Conditional use permitted only in multi-unit buildings with at least 150 dwelling units. Uses must be primarily for the residents, and no direct entrance from the outside is permitted.
	Wearing apparel service	<u>N</u>	N	C	C	
	Medical practitioner's office in a multiple unit dwelling	<u>N</u>	N	C	C	See Sec. 25.11.04.d

Key: P = Permitted Use; S = Special Exception; C = Conditional Use; N = Not Permitted

#### 25.11.04 –Development Standards

- a. *Table of Development Standards* – The following table provides the development standards for the Residential Medium Density Zones:

Zone	<u>Traet Area –Min. Minimum Area</u>	Minimum Traet Lot Frontage	<u>Maximum Building Coverage Minimum Open Area (percent of traet lot site area)</u>	<u>Minimum Front Setbacks</u>	<u>Minimum Side and Rear Setbacks</u>	Maximum Height	Additional Regulations
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<b>Residential Medium Infill (RMI)</b>	<u>Min. Lot Area of 4,000 square feet.</u>	<u>40 ft.</u>	<u>40% for lots less than 6,000 square feet; otherwise 50%</u>	<u>20 feet or the established setback, whichever is less. Setback from a public street may be reduced where recommended in the Master Plan.</u>	<u>Side: 8 ft. Rear: 20 ft.</u>	<u>35 ft.</u>	<u>Development must comply with any Neighborhood Conservation District regulations; See Sec. 25.11.05 for additional regulations</u>
<b>Residential Medium Density (RMD-10)</b>	<u>Min. Tract Area of 20,000 sq.ft.; 10 acres max. unless otherwise recommended in the Plan</u>	<u>50 60 ft.</u>	<u>25 40%</u>	<u>20 feet or the established setback, whichever is less. 25 feet from a public street or tract boundary, except 50 feet from a roadway of arterial or greater designation. Setback from a public street may be reduced where recommended in the Master Plan.</u>	<u>Side: 8 ft. Rear: 20 ft.</u>	<u>35 ft.</u>	<u>Accessory buildings limited to 15 feet building height. Development must comply with any Neighborhood Conservation District regulations.</u>
<b>Residential Medium Density (RMD-15)</b>	<u>Min. Tract Area of 1 acre</u>	<u>50 ft.</u>	<u>30%</u>	<u>15 feet or the established setback, whichever is less. 25 feet from a public street or tract boundary, except 50 feet from a roadway of arterial or greater designation. Setback from a public street may be reduced where recommended in the Master Plan.</u>	<u>Side: 8 ft. Rear: 15 ft.</u>	<u>40 ft.</u>	<u>Accessory buildings limited to 15 feet building height. Development must comply with any Neighborhood Conservation District regulations; See Sec. 25.11.07 for additional regulations.</u>
<b>Residential Medium Density (RMD-25)</b>	<u>Min. Tract Area of 2 acres</u>	<u>100 ft.</u>	<u>30%</u>	25 feet from a public street or tract boundary, plus 3 feet for each 1 foot of building height above 45 feet.  Main buildings must be set back from each other ½ the height of the building, plus 3 feet for each 1 foot of building height above 45 feet.	Side: 10' or one-half the height of the building, whichever is greater. Rear: 15' or one-half the height of the building, whichever is greater	<u>75 ft.</u>	<u>Accessory buildings limited to 15 feet building height. Where the tract adjoins property within any Park Zone or within any residential zone where single unit detached or semi-detached development exists, building height must not exceed a 30 degree proximity slope that begins at the common property boundary</u>  <u>See Sec. 25.17.06 regarding building shadow regulations.</u>



- b. *Moderately Priced Dwellings* – The Mayor and Council in approving a Project Plan application, may authorize an increase in the maximum number of dwelling units herein permitted where moderately priced dwelling units are included in the development in excess of the mandatory requirements as specified in Article 13.5 of this Code.
- c. *Yard Requirement* - Each single unit detached or single unit semidetached dwelling unit must have a private yard.
- d. *Medical Practitioner's Office in a Multiple-Unit Dwelling* – The conditional use must meet the following standards:
  - 1. The exterior of the building must not be altered except for display of a sign;
  - 2. No office can be located on a floor above the highest ground floor entry, and the interior office entrance must be located so as to minimize the distance to the exterior entry; and
  - 3. Off-street parking must be provided in accordance with Article 16 in addition to those spaces required for the residential portion of the building.
- e. Each record lot for a townhouse or attached dwelling unit, if provided, must front on a public street, private street, or a common open space

#### ~~25.11.05 – Special Regulations for Development in the RMD-10 Zone~~

~~Development in the RMD-10 Zone must comply with the density recommendations of the Plan or relevant Neighborhood Plan~~

#### ~~25.11.06 – Special Provisions for Townhouse Development in the RMD Zones~~

~~The following applies to residential townhouse developments:~~

- ~~1. No more than eight (8) townhouse units can be in any one (1) attached row;~~
- ~~2. Townhouse groups must be set back 25 feet from each other;~~
- ~~3. Building front setbacks must be 18 feet from a public street right-of-way internal to the site;~~
- ~~4. Not more than two (2) contiguous townhouse units can have the same front building lines. All townhouse units required to be offset must be offset horizontally at least two (2) feet;~~
- ~~5. Record lots for each dwelling unit, if provided, must front on a public street, private street, or a common open space; and~~

~~6. At least 50 percent of the development area must be open area.~~

#### **25.11.05 - Special Provisions for Development in the RMD-Infill Zone**

- a. Density - A minimum of 2,000 square feet of tract area per dwelling unit, but no more than 4 dwelling units permitted per lot.
- b. Height - Building height must be measured as provided in Section 25.10.09.
- a. Impervious Surface - A maximum of 40% percent impervious surface is permitted in the front yard. For a corner lot, the maximum front yard impervious surface limits are a maximum of 20%.
- b. Front Yard Setbacks for Corner Lots - On corner lots, the minimum front yard requirement along a side street is reduced to fifteen (15) feet.
- c. Minimum Open Area -- The minimum open area may be calculated across contiguous lots subject to the same site plan if such open space is provided as common open space.
- d. Single Unit Detached Dwellings - Single unit detached residential development must comply with the R-60 Zone qualifying undersized lot standards as set forth in Section 25.10.05 and applicable design guidelines as set forth in Section 25.10.14.
- e. Architectural Standards - The following standards apply:
  - 1. On interior lots, the main building common entrance, or each individual entrance to ground floor units, must be accessed directly from and face the street;
  - 2. On corner lots, dwellings must be designed so that street facing façades have substantially consistent architectural elements including, but not limited to, windows, materials, and details; and
  - 3. A single plane of a façade must not be greater than 40 feet in width.

#### **25.11.06- Special Provisions for Development in RMD-10 Zone**

- a. Single Unit Detached Dwellings - Single unit detached residential development must comply with the R-60 Zone qualifying undersized lot standards as set forth in Section 25.10.05 and applicable design guidelines as set forth in Section 25.10.14.

#### **25.11.07 - Special Provisions for Development in RMD-15 Zone**

- a. Single Unit Detached Dwellings - Single unit detached residential development must comply with the R-60 Zone lot standards as set forth in Section 25.10.05 and applicable design guidelines as set forth in Section 25.10.14.

### 25.11.08 - Special Provisions for Development in RMD-25 Zone

- a. Transition Height - Building height is limited to 45 feet within 10 feet of the subject property's minimum side setback from any adjoining property in any residential zone where single unit detached, semi-detached, attached, or townhouse development exists.
- b. Single Unit Detached Dwellings - Single unit detached residential development must comply with the R-60 Zone lot standards as set forth in Section 25.10.05 and applicable design guidelines as set forth in Section 25.10.14.

### 25.11.079 – Process for Approval

Applications for approval of development in the RMD Zones must be in accordance with the provisions of Section 25.07.02 of this Chapter.

### 25.11.0810 – Accessory Uses and Structures

All accessory uses and structures within Residential Medium Density Zones must comply with the provisions of Article 9 of this Chapter.

### 25.11.0911 – Nonconformities

All nonconforming uses and structures within Residential Medium Density Zones are subject to the provisions of Article 8.

### 25.11.4012 – Parking and Loading Requirements

~~Parking, access, and loading requirements within Residential Medium Density Zones must not be waived, but may be modified in the following respects subject to the procedures set forth below:~~

- ~~4a.~~ *Access to Dwelling Units* – Access to each dwelling ...
- ~~2b.~~ *Quantity of Parking Spaces Required* – Parking must be provided ...
- ~~3c.~~ *Separation of Parking Area or Interior Driveway* – No parking space ...
- ~~4d.~~ *Distance from Parking Area to Dwelling Unit* – Surface parking ...
- ~~5e.~~ *Separation of Parking Spaces* – Not more than ...
- f. RMD-Infill Zone Special Requirements - In the RMD-Infill Zone, the following additional requirements apply:
  - (1) For multiple-unit dwellings, surface parking or garage entrances for off-street parking must be in the rear yard of the dwelling.

- (2) On a corner lot, parking must be accessed from a functional alley, if one exists or is proposed to be constructed. If no functional alley exists or is proposed, parking must be accessed from a side street.
- (3) Where external surface parking of between three (3) and six (6) contiguous parking spaces is provided for either a two unit detached dwelling or multiple-unit dwelling, screening must be provided around the entire perimeter of the surface parking area. The screening must be evergreen hedges or evergreen trees that are thickly planted and maintained, and at least forty-two (42) inches in height when planted. For parking facilities, the landscaping standards of Section 4.d of the Landscaping, Screening, and Lighting Manual apply.

#### **25.11.~~11~~13 – Landscaping and Buffer Requirements**

All landscaping and buffering within Residential Medium Density Zones must comply with the provisions of Article 17 of this Chapter and, where applicable, the Forest and Tree Preservation Ordinance.

#### **25.11.~~12~~14 – Signs**

All signs within Residential Medium Density Zones must comply with the provisions of Article 18 of this Chapter.

### **IV. Amend Article 12, “Industrial Zones”, as follows:**

#### **25.12.03 – Land Use Tables**

The uses permitted in the Industrial zones are shown in the table below. Uses are subject to applicable conditions of site plan approval. All special exceptions are subject to the requirements of Article 15.

	Uses	Zones		Conditional requirements or related regulations
		Light Industrial I-L	Heavy Industrial I-H	
* * *				
g. Industrial and service uses	<u>Artisanal Craft Production</u>	<u>P</u>	<u>P</u>	<u>Items produced may be sold at retail on the premises</u>
	Alcoholic beverage production	C	P	Conditional use must not adjoin or confront a residential use in a residential zone.
	Alcoholic beverage production, limited	C	P	Conditional use must not adjoin or confront a residential use in a residential zone.
	Heavy industrial use	N	P	
	Light industrial use	P	P	
	Lumberyard	C	P	Conditional use shall not adjoin a Single Unit Development Residential Zone
	Service industrial use	P	P	
	Warehouse, self-storage	C	C	Not permitted on a lot within 250 feet of any lot on which a public school is located

V. Amend Article 13, “Mixed-Use Zones”, as follows:

25.13.03 – Land Use Tables

	Zones									
	Uses	Mixed-Use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Corridor Transition (MXCT)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed-Use Commercial (MXC)	Mixed-Use Transition (MXT)	Conditional requirements or related regulations
	* * *									
j. Industrial and service uses	<u>Artisanal Craft Production</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>Items produced may be sold at retail on the premises</u>
	Light industrial use	N	N	P	N	N	N	N	N	
	* * *									



**VI. Amend Article 13, “Mixed-Use Zones”, as follows:**

**Section 25.13.05.b - Development Standards Table:**

...

**2. Building Height**

...

- (b) *MXNC Zone* - Building height may be increased up to a maximum of 65 feet ~~when found suitable~~ in accordance with the Plan. If the Plan makes no other recommendation, development between 45 feet and 65 feet must provide 15 percent open area, of which 10 percent must be public use space.

**VII. Amend Article 16 - Parking and Loading, as follows:**

**Section 25.16.03 - Number of Spaces Required**

		Auto Parking Spaces		Bicycle Parking Spaces			
Use Category	Use	Unit Measure	Base Number Required	Unit Measure	Short Term Space	<u>Long Term Space</u>	Additional Regulations
Residential	Dwelling, single unit detached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, single unit semi-detached	Per dwelling unit	2	Dwelling unit	0	0	
	Dwelling, townhouse	Per dwelling unit	2	Dwelling unit	0	0	

	<u>Dwelling, two unit detached</u>	<u>Per dwelling unit</u>	<u>1</u>	<u>Dwelling unit</u>	<u>0</u>	<u>0</u>	
	Dwelling, single unit attached	Per dwelling unit	2	Dwelling unit	<u>0</u>	<u>0</u>	
	Dwelling, multiple-unit	For 0 (zero) bedrooms	1	Dwelling unit	1 per 50	1 per 3	<u>In the RMD-Infill Zone, only 1 parking space is required per dwelling unit.</u>
		For 1 bedroom	1				
		For 2 or more bedrooms	1.5				
	* * *						

# **VIII. Amend Article 16 - Parking and Loading, as follows:**

## **Section 25.16.06 - Parking Design Standards**

...

### *c. Entrance and Exit Driveway*

1. Driveways for ~~single-unit residential or duplex~~ buildings containing four (4) dwelling units or less must have a width of not less than ten (10) feet.

...



City of Rockville

## MEMORANDUM

June 23, 2021

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendations on:

- Zoning Text Amendment TXT2021-00258, for changes to the Residential Medium Density (RMD) Zones and the Creation of a New RMD-Infill Zone.
- Sectional Map Amendment MAP2021-00120 to apply the zoning recommended by the Comprehensive Master Plan Amendments for the North Stonestreet Ave and Park Road and North/South Stonestreet Ave Areas.

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At our meeting on June 23, 2021, the Planning Commission approved the comments in this memorandum for the proposed Zoning Text Amendment (ZTA) Application TXT2021-00258 for certain changes to the Residential Medium Density (RMD) Zones and the creation of a new RMD-Infill Zone to implement the Comprehensive Master Plan Amendments for the North Stonestreet Avenue and Park Road and the North/South Stonestreet Avenue Areas and for Sectional Map Amendment MAP2021-00120 to apply the recommended zoning for those areas.

The comments are based on an initial discussion after a staff briefing to the Planning Commission on April 28 and a more extensive discussion and deliberation on May 12. The Planning Commission voted 4-0 to recommend for approval to the Mayor and Council the draft ZTA and SMA, along with several items for further consideration as outlined below.

### PLANNING COMMISSION RECOMMENDATIONS

#### Zoning Text Amendment

##### 1) **Approval Process for Units in the RMD-Infill Zone: Building Permit versus Site Plan**

The Planning Commission discussed whether proposed development in the RMD-Infill Zone (two-, three- and four-unit dwellings) should be required to adhere to a site plan

review process or, as with single-unit detached and semi-detached residential dwellings, the building permit review process would be sufficient. Staff recommended allowing development in the RMD-infill zone to be reviewed under the building permit review process, suggesting that the specific requirements could be implemented through the building review process (architectural design, etc.). Staff's concern was that requiring site plan review could disincentivize these types of developments due to the added time and cost to the project.

***Planning Commission Comments and Recommendation:***

The Planning Commission discussed both review procedures and contemplated the potential added cost and time of the site plan process versus having an added review to ensure compliance with applicable regulations. Ultimately, the Planning Commission recommended that duplexes and triplexes be reviewed under building permit procedures, like single-unit detached residential dwellings, but that fourplexes should follow site plan review approval procedures. The Planning Commission felt that fourplexes could be developed at a larger scale than the other developments and that further review of proposals would help to ensure appropriate transitions to adjacent homes.

**2) Townhouses and Rowhouses**

The Planning Commission discussed whether the proposed RMD-Infill Zone should include the potential for townhouse or rowhouse development. In the current text amendment draft, neither is a permitted use. Staff recommended allowing townhouses in the RMD-Infill Zone but with added design criteria to facilitate rowhouse scaled construction. For example, additional regulations could require that townhouses include a front porch or stoop, that no internal vehicle parking be permitted within the main building (for example, no front-loaded garages would be allowed, as is common with many new townhouses) and if off-street surface parking is provided, it must be loaded in the rear yard. Potential regulations could be structured to include the following:

Townhouse Dwellings are permitted, subject to the following conditions:

1. The minimum lot width is 20 feet;
2. The minimum lot area is 1,500 square feet;
3. New main buildings must front on a public street and include a front porch, stoop, or uncovered stoop measuring a minimum depth of 5 feet facing the public street;
4. No internal vehicular parking is permitted within the main building;
5. If off-street surface parking is provided, it must be located in the rear yard and only be accessible from the rear of the property.

The other option was to create a new 'Rowhouse' definition in the Zoning Ordinance and update the use table to reflect rowhouses as a permitted use within the RMD-Infill Zone. Staff explained that pursuing this option would most likely require expanding the scope

of this text amendment given that rowhouses would also be allowed in other residential zones not currently included as part of this text amendment. Staff further explained that adding design criteria (option 1) within the RMD-Infill Zone to the already existing 'Townhouse Dwelling' use would provide an interim solution within the parameters of this specific amendment, and, once a more comprehensive update to the Zoning Ordinance is conducted, staff could include a rowhouse dwelling use definition for city-wide application within applicable zoning classifications.

***Planning Commission Comments and Recommendation:***

The Planning Commission agreed that rowhouses should be a permitted use within the RMD-Infill Zone, however, there was much discussion about how to permit them within the Zoning Ordinance. The Planning Commission preferred the first option of creating a new 'Rowhouse' use and definition in the Zoning Ordinance and updating the use table to reflect that use as a permitted use within the RMD-Infill Zone. Commissioners did, however, understand the constraints of the existing text amendment and the possibility of addressing the issue through adding design criteria to the Townhouse Dwelling use within the RMD-Infill Zone.

**3) Setbacks**

The Planning Commission discussed whether to reduce side yard setbacks from 8 feet (current proposal) to 5 feet to provide greater flexibility with building design for proposed infill developments. Staff recommended reducing the setbacks to provide this flexibility; spacing between buildings would still be required, but the reduced setback would allow for the potential for more compact development in areas designated for such.

***Planning Commission Comments and Recommendation:***

The Planning Commission generally agreed with reducing the minimum side setback to 5 feet but asked whether a condition could also be added to the side setback standard that provided flexibility in the distribution of the setbacks if a public benefit was provided. For example, allowing a zero-side setback on one side of the building and a minimum of 10 feet on the other side if a mature tree could be saved or community open space was to be provided.

**4) Garages**

The Planning Commission discussed whether garages or carports in the RMD-Infill Zone should be required to be set back (for example, a minimum of 5 feet) behind the front façade of the main building. Staff recommended including this requirement to de-emphasize vehicle storage, particularly in transit proximate areas, and as a potential design solution to break up the mass and bulk of a singular building.

***Planning Commission Comments and Recommendation:***

The Planning Commission supported the requirement to have garages set back from the

front façade of the building.

### 5) **Parking**

The Planning Commission discussed whether to reduce parking requirements in the RMD-Infill Zone, if certain criteria are met, such as if a project is within a certain proximity to the Rockville Metro Station. Staff recommended considering a minimum requirement of 1 space per 2 dwelling units as a base amount, with more provided if the builder finds that additional parking is needed. Less parking can translate into lower construction costs, helping to meet plan affordability goals. Further, many of the areas where the RMD-Infill Zone will be applied are transit proximate.

#### ***Planning Commission Comments and Recommendation:***

The Planning Commission was generally supportive of reduced parking requirements, particularly for projects near transit, however, Commissioners wanted to make sure that any adjustments to Townhouse and/or Rowhouse type dwellings were appropriately considered.

### 6) **Artisanal Craft Production Definition**

The Planning Commission reviewed the proposed definition for the new Artisanal Craft Production use and provided suggestions to expand the language to include food production and emphasis on the entrepreneurial aspects of the use.

#### ***Planning Commission Comments and Recommendation:***

The Planning Commission supported revising the draft language to include the above comments.

### 7) **Porches and Balconies**

The Planning Commission discussed encouraging or requiring porches and/or balconies for new residential units to facilitate more connected and walkable neighborhoods and promote outdoor gathering spaces.

#### ***Planning Commission Comments and Recommendation:***

The Planning Commission supported incorporating porches and/or balconies into new development but did not conclude whether they should be requirements or encouraged.

## **Sectional Map Amendment**

### 1) **Boundary Amendment to the Lincoln Park Neighborhood Conservation District**

In 2007, a Neighborhood Conservation District (NCD) was adopted for the Lincoln Park Neighborhood, including the non-residential properties on both sides of North Stonestreet Avenue, north of Howard Avenue. The NCD includes regulations that are



Planning Commission Recommendation  
TXT2021-00258 and MAP2021-00120  
June 23, 2021

geared toward single-unit detached residential development on individual lots. With the updated visions that the Plan Amendments established for the subject areas, to accommodate a mix of housing types and potential mixed-use developments, the North Stonestreet Avenue Comprehensive Master Plan Amendment recommended that the subject properties north of Howard Avenue be removed from the boundaries of the Lincoln Park Neighborhood Conservation District. During the Plan Amendment process, the boundary adjustment was discussed with the Lincoln Park Civic Association, and they expressed support for the change.

***Planning Commission Comments and Recommendation:***

The Planning Commission was supportive of the boundary adjustment as recommended by the North Stonestreet Avenue Comprehensive Master Plan Amendment.

Therefore, on a motion by Commissioner Tyner, seconded by Commissioner Goodman, the Planning Commission recommended approval of Text Amendment TXT2021-00258 and Sectional Map Amendment MAP2021-00120, with the additional recommendations as outlined above. The vote was 4-0 in favor, with Chair Pitman and Commissioners Goodman, Pearson and Tyner in favor, and Commissioners Littlefield, Miller and Nunez absent for the vote.

Planning Commission Recommendation  
TXT2021-00258 and MAP2021-00120  
June 23, 2021

**c.c.:** Robert DiSpirito, City Manager  
Ricky Barker, Director, PDS  
Jim Wasilak, Chief of Zoning, PDS



Mayor & Council Meeting Date: September 13, 2021

Agenda Item Type: Adoption

Department: Planning & Development Services

Responsible Staff: John Foreman

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## **Subject**

Possible Adoption of an Annexation Agreement (King Buick)

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## **Recommendation**

### **Discussion**

#### **Background**

Since receiving instruction from Mayor and Council at the July 19<sup>th</sup> meeting on this topic, staff and the prospective developer, EYA, have continued to work on the King Buick annexation agreement. Agreement has been reached on all key items, and staff presents a draft agreement for the Mayor and Council's consideration.

#### **Overview of King Buick Annexation and Development Process**

The proposed development of the King Buick dealership property in the City of Rockville involves several steps, from the initial filing of a petition for annexation to the ultimate approval of development plans that are consistent with all relevant regulations.

#### **Annexation Petition**

Under State law, the annexation of property by a municipality may be initiated by an annexation petition signed by the owners of property within the area to be annexed. On November 12, 2020, the current owner of the King Buick dealership property, Victor, Inc., filed an annexation petition with the City. As the contract purchaser and prospective developer of the property to be annexed, EYA, LLC, submitted an illustrative site plan for the future development of both the property proposed for annexation and an undeveloped tract of land within the city limits adjacent to King Farm Farmstead. The development proposal, a separate but related item from the annexation petition, includes approximately 365 dwelling units, including 247 townhouses and 118 two-over-two multifamily units. City code, Chapter 13.5 requires a minimum of 15% or 56 Moderately Priced Dwelling Units (MPDUs), plus an additional two (2) units for a total of 58 MPDUs.

#### **Annexation Resolution**

Upon the filing of an annexation petition with a municipality, State law requires that the municipal legislative body introduce a resolution proposing the change of municipal

boundaries. This draft resolution, along with the annexation plan described below, will form the basis of a required public hearing on the annexation. On November 23, 2020, the Mayor and Council introduced a resolution for the annexation of the King Buick property and, on May 17, 2021, held a public hearing date on the proposed annexation.

#### Annexation Plan

In addition to the annexation resolution, State law requires a municipality to adopt an annexation plan for the area proposed for annexation. An annexation plan ensures that the proposed annexation is consistent with the municipal growth element of the municipality's comprehensive plan. It includes a description of the existing and proposed zoning for the annexation area, as well as an analysis of the ability of the municipality and other public bodies to provide public services. An annexation plan, including the proposed zoning district, is open to public review and discussion at the public hearing on the annexation.

Under the City Code, the Rockville Planning Commission is tasked with developing and approving an annexation plan for the Mayor and Council's adoption. Mayor and Council adopted the Planning Commission's recommended annexation plan on April 12, 2021.

#### Public Hearing

On May 17, 2021, the Mayor and Council held a public hearing on both the introduced annexation resolution and the adopted annexation plan, providing the opportunity for the public to comment on the proposed zoning classification.

#### Annexation Agreement

The steps above are legally required before an annexation can occur. In contrast, neither State law nor City Code requires a municipality to execute an annexation agreement with property owners or developers before annexing property. However, annexation agreements can be useful tools for both property owners and municipalities to negotiate certain terms, such as the provision of public infrastructure. This is particularly the case when large properties are annexed.

As part of the proposed King Buick annexation, EYA has requested that the City and EYA execute an annexation agreement. For several months, City staff and representatives of EYA have discussed the terms of the agreement and have jointly produced the attached agreement for the Mayor and Council's review and action. A final annexation agreement requires Mayor and Council approval and authorization for the City Manager to execute the agreement. The draft agreement attached to this report is proposed to be executed before adoption of the annexation resolution and would take effect upon annexation of the King Buick property. The terms of the agreement are described in more detail below.

#### Adoption of Annexation Resolution and Zoning Map Amendment

After holding a public hearing on the draft annexation resolution and adopted annexation plan

(with the proposed zoning designation), a municipal body may adopt an annexation resolution to enlarge its municipal boundaries. Under State law, an annexation becomes effective 45 days after the adoption of such a resolution. In addition, under the City Code, the Mayor and Council may adopt an ordinance amending the City's zoning map to include the newly-annexed property. Such an ordinance is effective the same date the annexation becomes effective under State law. Both the resolution to enlarge the municipal boundaries and the ordinance to amend the zoning map are scheduled for Mayor and Council consideration on October 4, 2021.

#### Project Plan

Once an annexation occurs, the owners or developers of the annexed property are eligible to receive approval of regulatory plans to develop the property. In the case of the King Buick property, EYA has elected to submit its Pre-Application Meeting (PAM) application and initiate a project plan application while the proposed annexation is pending. The applicant filed the PAM application on December 11, 2020 and met with the Development Review Committee (DRC) on January 21, 2021. The project plan application was filed on May 4, 2021, and the DRC was held on June 17, 2021.

Project Plan applications require briefings on the application at both a Mayor and Council meeting and a Planning Commission meeting early in the application process. The Project Plan briefing was held at the Planning Commission meeting on June 23, 2021 and at Mayor and Council on July 19, 2021. After the briefings, the project is subject to staff review, a recommendation from the Planning Commission, and approval by Mayor and Council. This approval must occur after the annexation resolution is adopted.

#### Site Plan

After approval of the Project Plan by the Mayor and Council, the Planning Commission will consider a site plan, or multiple site plans if the project is phased, implementing the Project Plan. The applicant filed the site plan application on August 16, 2021.

#### Development Project Overview

The Project seeks to transform an existing automobile dealership/service facility and unimproved areas, to a range of new single-family townhomes and multi-family homes for ownership, which are permitted by right in the Mixed-Use Commercial District (MXCD) zone (proposed zoning designation for the property). The 16160/16200 Frederick Road portion of the application is currently located in Montgomery County and is proposed to be annexed.

The Project proposes a maximum of 370 total dwelling units (up to 1.5 FAR residential) comprised of 253 townhouses with front and rear-loaded garages and a variety of widths (expected to be 14 feet wide through 24 feet wide), and 118 two-over-two multi-family units. The two-over-two multi-family units (up to 55 feet in height) are located along the property's Frederick Road frontage, with the townhouses (up to 50 feet in height) sited at the property's sides, rear and interior. The two-over-two multi-family units and townhouses in the property's

interior will be accessed by rear-loaded alleys, where the townhouses are located on the property's perimeter, and will be served by front-loaded driveways with rear yards that provide additional separation from adjacent properties. Five townhouse units that were shown abutting the King Farm farmstead in the pre-Application Meeting submission have since been replaced with additional public use space envisioned to contain playgrounds and other amenities.

The Project's proposed public use space features a large consolidated centralized area that includes a 2,280 square-foot community amenity building with pool, with parking to be provided entirely off-lot in on-street parking located across the street. An additional public use space is located adjacent to the farmstead and is envisioned to contain a playground and other amenities. Also, an approximately 75-foot-wide easement area on the Property's northwestern edge, is proposed to include a natural trail in a meadow setting with plantings, as well as lawn areas for active and passive recreation, subject to WSSC approval. The Project also proposes new pedestrian connections from the Property to the adjacent Mattie J.T. Stepanek Park and King Farm Farmstead.

### **Contents of the Agreement**

The attached proposed agreement contains a variety of provisions intended to provide assurances on requirements and process for the applicant while establishing items of benefit to the City, particularly the proposed parking on the King Farm Farmstead. The agreement contains a Concept Plan, which establishes the proposed form of the development, as well as the maximum number of units and the type and location of streets and public use space. The agreement references the zoning district and establishes the proposed uses. Certain key provisions are described in more detail below.

### **Parking for King Farm Farmstead**

The Mayor and Council had sought for the developer to create public parking on or adjacent to the King Farm Farmstead in order to help activate that historic and aesthetic City asset for access and use by the public. EYA and City staff proposed that this parking lot be located on the King Farm Farmstead itself, which the Mayor and Council formally agreed to. EYA estimates their cost for constructing this lot to City standards, including addressing access to MD355, stormwater, lighting and landscaping, to be \$700,000 to \$800,000.

The annexation agreement commits EYA to design and construct a 47-space surface parking lot on the City's King Farm Farmstead property at the Mayor and Council's preferred location between EYA's development and the three smaller Farmstead buildings, as shown in the attached exhibit. This location is close to the main buildings, and it is tucked away from the main house and the larger buildings. In addition, there may be potential for the City to add onto this parking lot in the future. Following the Mayor and Council discussion on this item on July 19<sup>th</sup>, staff and the applicant drafted and finalized terms for the applicant to provide this parking.



In addition to the location and number of spaces, the agreement outlines the process for design, permitting, and construction. The applicant is responsible for design while the City is responsible for development approvals and permitting. The applicant is responsible for construction.

Because the farmstead is designated as historic, the proposed parking lot is subject to Historic District Review. The Historic District Commission held a courtesy review at their August 10<sup>th</sup> meeting. Peerless Rockville submitted written testimony stating support for providing parking for the Farmstead, while noting that the proposal requires careful consideration and recommended several items. This includes providing additional exhibits showing how the parking lot will look, including landscaping, screening, and the proposed material. Staff will work with the applicant to ensure that this is done for the HDC's consideration sometime in 2022.

Under the annexation agreement, EYA must submit all necessary design plans to the City, including a site plan application, for the Farmstead parking lot within sixty (60) days of the date of the Mayor and Council's resolution approving the project plan. EYA will prepare all plans and application materials, and City staff will lead the application process. EYA's contractors will perform the construction at the same time as the main project, and the agreement contains deadlines for beginning and completing construction.

The agreement includes a provision to allow payment in lieu of the parking lot if the City does not obtain approvals for the parking within six months of EYA's beginning construction of the development project. Staff desires for EYA to construct this parking lot and does not believe that there will be any delays by the City to approve plans for its parking lot. Though it is unlikely the City will miss this deadline, EYA is concerned about the significant costs of reactivating the contractor to only do the parking lot. Staff and EYA have agreed on terms to ensure that cost is adequately estimated by an independent third party should this occur. Finally, staff and EYA have come to agreement on issues related to forestry requirements, stormwater, and ADA access for the parking lot, and these items will be finalized through the site plan process.

#### MPDUs

The City Code requires that developments like the one proposed by EYA provide a minimum of 15% Moderately Priced Dwelling Units (MPDUs). However, the Mayor and Council has instructed staff to work with EYA to try to secure additional MPDUs beyond the code requirement, with the final count to be reflected in the annexation agreement. As directed by the Mayor and Council, staff worked diligently to secure additional MPDUs beyond the 15% minimum code requirement, which equates to 56 new units in this project. However, EYA has consistently and firmly represented to staff that the project does not have the financial capacity to support additional units beyond two (2) units. Therefore, the proposed annexation agreement commits EYA to providing these two additional MPDUs beyond the 15% requirement, distributed between townhomes and two-over-two units at the following

affordability levels:

King Buick Proposed MPDU Distribution				
	AMI Level			
	50%	60%	80%	TOTAL
15% Requirement- 56	16	20	20	56
Additional Units-2	0	0	2	2
TOTAL	16	20	22	58

#### Notable Transportation-related Improvements

In accordance with the City's Comprehensive Transportation Review (CTR), EYA has submitted a transportation report that has been reviewed by City staff, and other governmental reviewing agencies including the Montgomery County Department of Transportation (MCDOT) and State Highway Administration (SHA). As a result of that review, and coordination with the applicant, the annexation agreement includes the following offsite transportation-related improvements to be completed by the applicant:

- In accordance with the City's Bikeway Master Plan, a 10-foot-wide cycle track and a buffered 6 foot wide sidewalk along the entire MD355 property frontage;
- Full accommodation for the MD355 Bus Rapid Transit (BRT) based on the latest concept drawing obtained from MCDOT;
- Full signalization of the main site access on MD355, with interconnections to other signals along MD355 in accordance with MCDOT and SHA requirements;
- Provision of an ADA-accessible pedestrian route from the site to the Farmstead, including connection to sidewalk on MD355;
- Recreation pathway through the area encumbered by the WSSC easement, including connection to MD355 and the internal roadways within the development;
- Provision of alternate direct pedestrian linkage, with bicycle accommodation, from the development to the Stepanek Park and dog park;
- Provision of a secondary vehicular, pedestrian, and bicycle access to the Stepanek Park roadway and Pleasant Drive, with pedestrian enhancements, including curb bump outs and crosswalks;
- Pedestrian-related improvements at the intersection of Piccard Drive and Pleasant Drive including curb radii modifications, new crosswalks, and ramp configurations.

#### Stormwater Management

Stormwater management (SWM) is proposed in accordance with City Code requirements. Staff

has determined that the SWM Concept achieves the required level of on-site Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP), as established by the Pre-Application SWM Concept approval letter. Furthermore, the Applicant and Staff agree a minimum 95% of the Target ESD<sub>v</sub> shall be provided in a combination of ESD measures and onsite structural storage, as established by the revised Annexation SWM Concept approval letter. Prior to permit issuance, a Revocable License and Maintenance Agreement granted by Mayor and Council shall be required for private stormwater facilities proposed to be located within public rights-of-way.

### Acceptable Waivers/Flexible Standards

#### **Trees per townhouse lot**

Under the Zoning Ordinance, the developer is required to provide a minimum of three (3) trees per residential lot. EYA's proposed development will require a waiver from this requirement from the Planning Commission. Due to the limited lot size for townhomes, there is not adequate area to plant three trees per lot and meet the required tree area. The development proposed by EYA requires 778 lot trees to meet this requirement. EYA is proposing that the aggregate tree total planted on the site be allowed to count towards the minimum lot tree requirement, although the trees are provided off the lots. EYA is currently proposing to provide a total of six hundred and eighty-four (684) trees on the site, off the lots. One hundred and eleven (111) of these trees are provided in addition to other forestry requirements on the site. Staff has worked with the developer to maximize plantings under the current site design.

In order to grant a waiver of the three trees per residential lot requirement, the Planning Commission must find that undue hardship will result from strict compliance with this requirement, and the Commission may grant a waiver from such requirement if the public health, safety, aesthetics, or general welfare will not be impaired, and the waiver will not be contrary to the intent and purpose of the Plan or the Zoning Ordinance. In reviewing the proposed development, it is evident that the design of the townhouse lots and the limited amount of planting area makes it impossible to accommodate multiple tree plantings on each residential lot.

Staff supports this waiver request, and the annexation agreement commits staff to recommending that the Planning Commission approve it as part of its review of EYA's site plan application. The Planning Commission has previously approved similar waivers on other townhouse projects. A letter from the applicant detailing their proposed waiver request is included in the exhibits for the agreement.

#### **Street cross-sections**

EYA's proposed development requires waiver of road code standards to narrow some of the streets, by the Director of Public Works and the Mayor and Council. Staff finds that supporting this waiver is consistent with the intent of the Code and has recently become a routine aspect

of newly-proposed residential subdivisions. Staff also acknowledges that the road code waivers are minor in nature, and the proposed road sections provide all required elements for safe and efficient pedestrian, bicycle, and vehicular travel. The waivers to be requested by the applicant include the reduction of small sections of the right of way width from the minimum 60 feet to 51 feet, and the reduction of the minimum pavement width of 26 feet to 22 feet in certain areas for secondary residential streets. The right-of-way in areas that would be reduced still include all necessary elements like buffered 5-foot wide sidewalks and the required lane widths in each direction of travel. The areas of reduced pavement width occur in locations of the subdivision near intersections and/or pedestrian crossings, around curves, or on short segments of roadway where the parking is not included. These are generally areas where parking is not necessary or recommended for safety reasons and by general design practice. Staff notes that parking is adequately accommodated through the site and is not concerned with these small areas where the proposed roadway width will be reduced. The annexation agreement acknowledges that these waivers to the City's road code are required to accommodate the development as proposed by EYA.

The annexation agreement also obligates staff and the Mayor and Council, as applicable, to grant the required road code waivers for the road sections as shown on the submitted cross sections exhibit referred to in the Annexation Agreement, if requested by the applicant. As a next step pertaining to this item, staff proposes to bring the road code waivers to the Mayor and Council for approval as a consent agenda item, tentatively scheduled for the November 8 agenda.

#### **Parking for proposed community center**

Based on the parking requirements in the zoning ordinance, ten (10) off-street parking spaces are required for the proposed community center. Instead of providing parking on-site, the applicant is proposing to provide on-street spaces to meet the requirement, including an ADA accessible space. In the MXCD zone, the Mayor and Council, in the approval of a project plan, have the authority to reduce the required number of parking spaces for uses in the building or buildings to be constructed, provided that criteria are met. This section provides Mayor and Council with discretion in allowing reductions, including "for good cause shown." Staff has reviewed and found that all other parking requirements are met, and visitor parking on the project overall is provided at a rate of .76 spaces per unit, exceeding the recommended ration of .50, including 95 on-street spaces. Since there are more than adequate spaces on the street and the community center is located in the center of the site easily accessible by pedestrians, staff finds that reducing the parking on the community center site, to zero and providing ten on-street spaces nearby, the area for the community center is thereby maximized while the parking needs are still met. The annexation agreement commits staff to supporting this proposal.

#### **Other Items**

In addition to these items, the agreement also:

- Provides for expeditious staff reviews based upon our development review process;
- References the approved Preliminary Forest Conservation Plan;
- Notes that City staff supports the open space and public use space proposed by EYA, and commits staff to recommending approval of the open space and public use space by the Mayor and Council and Planning Commission as part of the project and site plans;
- Commits the City to re-dedicating a portion of Pleasant Drive for use as a public right-of-way;
- Identifies other transportation improvements and right-of-way dedication;
- Provides easements and construction access for the King Farm Farmstead;
- Establishes that undergrounding of existing utilities along Fredrick Road is not required except for the electrical connection to King Farm Farmstead;
- Notes that the proposed development satisfies the City's school adequacy test for developments tested during the 2021-2022 school year;
- States that Rockville will support EYA in obtaining water and sewer services from WSSC, including easements;
- Outlines requirements for historic review;
- For a period of up to five years from the issuance of the final building permit for the proposed development, commits Rockville to approving or providing necessary easements on Rockville property to support EYA's connections to existing storm drain, water and sewer facilities, and other utilities to the extent such connections and easements have no material impact on Rockville's interests;
- Notes that the owner of the City portion of the property EYA proposes for development is not bound by the King Farm Annexation Agreement;
- Provides that Rockville will cooperate with Montgomery County if necessary regarding EYA's request for County impact tax credits; and
- Establishes a term for compliance with the design guidelines in the zoning ordinance.

#### Agreement Effective Date and Withdrawal of Petition for Annexation

By its terms, the annexation agreement will not become effective until the annexation is effective under Maryland law, forty-five (45) days after the Mayor and Council adopt the annexation resolution. The annexation agreement further provides that EYA and the current property may withdraw their petition for annexation after the annexation resolution is adopted, but before the annexation is effective. Under the agreement, if the City receives notice of the withdrawal of the annexation petition no later than nine (9) days before the annexation's effective date, the City is obligated to take such action necessary to rescind the annexation, which would likely be adoption of a resolution to that effect by the Mayor and Council. This provision is consistent with a similar provision to which the City agreed in the annexation agreement for the King Farm development.

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## **Mayor and Council History**

On November 23, 2020, the Mayor and Council voted to initiate the annexation process. On March 1, 2021, Mayor and Council voted to authorize the release of easement on the property. On April 12, 2021, the Mayor and Council discussed key provisions of the proposed agreement and adopted the annexation plan. On May 17, 2021, the Mayor and Council held the public hearing on the annexation, and on June 12, 2021, the Mayor and Council held Discussion and Instructions on the annexation and introduced the ordinance to amend the zoning ordinance. On July 19, 2021, the Mayor and Council held Introduction, Discussion and Instructions on the annexation agreement.

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## **Public Notification and Engagement**

A virtual pre-application area meeting was held on November 24, 2020. A virtual post-application area meeting was held on June 3, 2021 for the project plan, and another on August 31, 2021 for the site plan.

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## **Next Steps**

At the September 13<sup>th</sup> meeting, the Mayor and Council may choose to adopt the proposed agreement and authorize the City Manager to execute it. Following this action, the agreement would be executed prior to the adoption of the annexation resolution and would become effective upon the annexation of the property.

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## **Discussion**

### **Background**

Since receiving instruction from Mayor and Council at the July 19<sup>th</sup> meeting on this topic, staff and the prospective developer, EYA, have continued to work on the King Buick annexation agreement. Agreement has been reached on all key items, and staff presents a draft agreement for Mayor and Council consideration.

### **Overview of King Buick Annexation and Development Process**

The proposed development of the King Buick dealership property in the City of Rockville involves several steps, from the initial filing of a petition for annexation to the ultimate approval of development plans that are consistent with all relevant regulations.

### **Annexation Petition**

Under State law, the annexation of property by a municipality may be initiated by an annexation petition signed by the owners of property within the area to be annexed. On November 12, 2020, the current owner of the King Buick dealership property, Victor, Inc., filed

an annexation petition with the City. As the contract purchaser and prospective developer of the property to be annexed, EYA, LLC, submitted an illustrative site plan for the future development of both the property proposed for annexation and an undeveloped tract of land within the city limits adjacent to King Farm Farmstead. The development proposal, a separate but related item from the annexation petition, includes approximately 365 dwelling units, including 247 townhouses and 118 two-over-two multifamily units. City code, Chapter 13.5 requires a minimum of 15% or 56 Moderately Priced Dwelling Units (MPDUs), plus an additional two (2) units for a total of 58 MPDUs.

#### Annexation Resolution

Upon the filing of an annexation petition with a municipality, State law requires that the municipal legislative body introduce a resolution proposing the change of municipal boundaries. This draft resolution, along with the annexation plan described below, will form the basis of a required public hearing on the annexation. On November 23, 2020, the Mayor and Council introduced a resolution for the annexation of the King Buick property and, on May 17, 2021, held a public hearing date on the proposed annexation.

#### Annexation Plan

In addition to the annexation resolution, State law requires a municipality to adopt an annexation plan for the area proposed for annexation. An annexation plan ensures that the proposed annexation is consistent with the municipal growth element of the municipality's comprehensive plan and includes a description of the existing and proposed zoning for the annexation area as well as an analysis of the ability of the municipality and other public bodies to provide public services. An annexation plan, including the proposed zoning district, is open to public review and discussion at the public hearing on the annexation.

Under the City Code, the Rockville Planning Commission is tasked with developing and approving an annexation plan for the Mayor and Council's adoption. Mayor and Council adopted the Planning Commission's recommended annexation plan on April 12, 2021.

#### Public Hearing

On May 17, 2021, the Mayor and Council held a public hearing on both the introduced annexation resolution and the adopted annexation plan, providing the opportunity for the public to comment on the proposed zoning classification.

#### Annexation Agreement

The steps above are legally required before an annexation can occur. In contrast, neither State law nor City Code requires a municipality to execute an annexation agreement with property owners or developers before annexing property. However, annexation agreements can be useful tools for both property owners and municipalities to negotiate certain terms, such as the provision of public infrastructure. This is particularly the case when large properties are annexed.



As part of the proposed King Buick annexation, EYA has requested that the City and EYA execute an annexation agreement. For several months, City staff and representatives of EYA have discussed the terms of the agreement and have jointly produced the attached agreement for the Mayor and Council's review and action. A final annexation agreement requires Mayor and Council approval and authorization for the City Manager to execute the agreement. The draft agreement attached to this report is proposed to be executed before adoption of the annexation resolution and would take effect upon annexation of the King Buick property. The terms of the agreement are described in more detail below.

#### Adoption of Annexation Resolution and Zoning Map Amendment

After holding a public hearing on the draft annexation resolution and adopted annexation plan (with the proposed zoning designation), a municipal body may adopt an annexation resolution to enlarge its municipal boundaries. Under State law, an annexation becomes effective 45 days after the adoption of such a resolution. In addition, under the City Code, the Mayor and Council may adopt an ordinance amending the City's zoning map to include the newly annexed property. Such an ordinance is effective the same date the annexation becomes effective under State law. Both the resolution to enlarge the municipal boundaries and the ordinance to amend the zoning map are scheduled for Mayor and Council consideration on October 4, 2021.

#### Project Plan

Once an annexation occurs, the owners or developers of the annexed property are eligible to receive approval of regulatory plans to develop the property. In the case of the King Buick property, EYA has elected to submit its Pre-Application Meeting (PAM) application and initiate a project plan application while the proposed annexation is pending. The applicant filed the PAM application on December 11, 2020 and met with the Development Review Committee (DRC) on January 21, 2021. The project plan application was filed on May 4, 2021, and the DRC was held on June 17, 2021.

Project Plan applications require briefings on the application at both a Mayor and Council meeting and a Planning Commission meeting early in the application process. The Project Plan briefing was held at the Planning Commission meeting on June 23, 2021 and at Mayor and Council on July 19, 2021. After the briefings, the project is subject to staff review, a recommendation from the Planning Commission, and approval by Mayor and Council. This approval must occur after the annexation resolution is adopted.

#### Site Plan

After approval of the Project Plan by the Mayor and Council, the Planning Commission will consider a site plan, or multiple site plans if the project is phased, implementing the Project Plan. The applicant filed the site plan application on August 16, 2021.

#### Development Project Overview

The Project seeks to transform an existing automobile dealership/service facility and unimproved areas with a range of new single-family townhomes and multi-family homes for ownership, which are permitted by right in the Mixed-Use Commercial District (MXCD) zone

(proposed zoning designation for the property). The 16160/16200 Frederick Road portion of the application is current located in Montgomery County and is proposed to be annexed.

The Project proposes a maximum of 370 total dwelling units (up to 1.5 FAR residential) comprised of 253 townhouses with front and rear loaded garages and a variety of widths (expected to be 14 feet wide through 24 feet wide) and 118 two-over-two multi-family units. The two-over-two multi-family units (up to 55 feet in height) are located along the property's Frederick Road frontage, with the townhouses (up to 50 feet in height) sited at the property's sides, rear and interior. The two-over-two multi-family units and townhouses in the property's interior will be accessed by rear-loaded alleys, where the townhouses are located on the property's perimeter and will be served by front-loaded driveways with rear yards that provide additional separation from adjacent properties. Five townhouse units that were shown abutting the King Farm farmstead in the pre-Application Meeting submission have since been replaced with additional public use space envisioned to contain playgrounds and other amenities.

The Project's proposed public use space includes a large consolidated centralized area that includes a 2,280 square-foot community amenity building with pool, with parking to be provided entirely off-lot in on-street parking located across the street. An additional public use space is located adjacent to the farmstead and is envisioned to contain a playground and other amenities. Also, an approximately 75-foot-wide easement area on the Property's northwestern edge, is proposed to include a natural trail in a meadow setting with plantings, as well as lawn areas for active and passive recreation, subject to WSSC approval. The Project also proposes new pedestrian connections from the Property to the adjacent Mattie J.T. Stepanek Park and King Farm Farmstead.

### **Contents of the Agreement**

The attached proposed agreement contains a variety of provisions intended to provide assurances on requirements and process for the applicant while establishing items of benefit to the City, particularly the proposed parking on the King Farm Farmstead. The agreement contains a Concept Plan, which establishes the proposed form of the development as well as the maximum number of units and the type and location of streets and public use space. The agreement references the zoning district and establishes the proposed uses. Certain key provisions are described in more detail below.

### **Parking for King Farm Farmstead**

The annexation agreement commits EYA to design and construct a 47 space parking lot on the City's King Farm Farmstead property at the Mayor and Council's preferred location between EYA's development and the three smaller Farmstead buildings, as shown in the attached exhibit. This location is close to the main buildings, and it is tucked away from the main house and the larger buildings. In addition, there may be potential for the City to add onto this parking lot in the future. Following the Mayor and Council discussion on this item on July 19<sup>th</sup>, staff and the applicant drafted and finalized terms for the applicant to provide this parking.

In addition to the location and number of spaces, the agreement outlines the process for design, permitting, and construction. The applicant is responsible for design while the City is responsible for development approvals and permitting. The applicant is responsible for construction.

Because the farmstead is designated as historic, the proposed parking lot is subject to Historic District Review. The Historic District Commission held a courtesy review at their August 10<sup>th</sup> meeting. Peerless Rockville submitted written testimony stating support for providing parking for the Farmstead while noting that the proposal requires careful consideration and recommended several items, including providing additional exhibits showing how the parking lot will look, including landscaping, screening, and the proposed material. Staff will work with the applicant to ensure that this is done for the HDC's consideration sometime in 2022.

Under the annexation agreement, EYA must submit all necessary design plans, including a site plan application, to the City for the Farmstead parking lot within sixty days of the date the Mayor and Council's resolution approving the project plan. EYA will prepare all plans and application materials, and City staff will lead the application process. EYA's contractors will perform the construction at the same time as the main project, and the agreement contains deadlines for beginning and completing construction.

The agreement includes a provision to allow payment in lieu of the parking lot if the City does not obtain approvals for the parking within six months of EYA's beginning construction of the development project. Staff desires for EYA to construct this parking lot and does not believe that there will be any delays by the City to approve plans for its parking lot. Though it is unlikely the City will miss this deadline, EYA is concerned about the significant costs of reactivating the contractor to only do the parking lot. Staff and EYA have agreed on terms to ensure that cost is adequately estimated by an independent third party should this occur. Finally, staff and EYA have come to agreement on issues related to forestry requirements, stormwater, and ADA access for the parking lot, and these items will be finalized through the site plan process.

### MPDUs

The City Code requires that developments like the one proposed by EYA provide a minimum of 15% Moderately Priced Dwelling Units (MPDUs). However, the Mayor and Council has instructed staff to work with EYA to secure additional MPDUs beyond the code requirement, with the final count to be reflected in the annexation agreement. As directed by the Mayor and Council, staff worked diligently to secure additional MPDUs beyond the 15% minimum code requirement. EYA has consistently presented to staff that the project did not have the financial capacity to support additional units beyond two (2) units, and the annexation agreement commits EYA to providing two additional MPDUs beyond the 15% requirement, distributed between townhomes and two-over-two units at the following affordability levels:

#### King Buick Proposed MPDU Distribution

AMI Level
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	50%	60%	80%	TOTAL
15% Requirement-56	16	20	20	56
Additional Units-2	0	0	2	2
<b>TOTAL</b>	<b>16</b>	<b>20</b>	<b>22</b>	<b>58</b>

#### Notable Transportation-related Improvements

In accordance with the City's Comprehensive Transportation Review (CTR), EYA has submitted a transportation report that has been reviewed by City staff, and other governmental reviewing agencies including Montgomery County Department of Transportation (MCDOT) and State Highway Administration (SHA). As a result of that review, and coordination with the applicant, the annexation agreement includes the following offsite transportation related improvements to be completed by the applicant:

- In accordance with the city's Bikeway Master Plan, a 10-foot-wide cycle track and a buffered 6 foot wide sidewalk along the entire MD355 property frontage;
- Full accommodation for the MD355 Bus Rapid Transit (BRT) based on the latest concept drawing obtained from MCDOT;
- Full signalization of the main site access on MD355, with interconnections to other signals along MD355 in accordance with MCDOT and SHA requirements;
- Provision of ADA accessible pedestrian route from the site to the Farmstead, including connection to sidewalk on MD355;
- Recreation pathway through the area encumbered by the WSSC easement, including connection to MD355 and the internal roadways within the development;
- Provision of alternate direct pedestrian linkage, with bicycle accommodation, from the development to the Stepanek Park and dog park;
- Provision of a secondary vehicular, pedestrian, and bicycle access to the Stepanek Park roadway and Pleasant Drive, with pedestrian enhancements, including curb bump outs and crosswalks;
- Pedestrian related improvements at the intersection of Piccard Drive and Pleasant Drive including curb radii modifications, new crosswalks, and ramp configurations.

#### Stormwater Management

Stormwater management (SWM) is proposed in accordance with City Code requirements. Staff has determined that the SWM Concept achieves the required level of on-site Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP), as established by the Pre-Application SWM Concept approval letter. Furthermore, the Applicant and Staff agree a minimum 95% of the Target ESD<sub>v</sub> shall be provided in a combination of ESD measures and onsite structural storage, as established by the revised Annexation SWM Concept approval letter. Prior to permit issuance, a Revocable License and Maintenance Agreement granted by Mayor and Council shall be required for private stormwater facilities proposed to be located within public rights-of-way.

## Acceptable Waivers/Flexible Standards

### **Trees per townhouse lot**

Under the Zoning Ordinance, the developer is required to provide a minimum of three (3) trees per residential lot.<sup>1</sup> EYA's proposed development will require a waiver from this requirement from the Planning Commission. Due to the limited lot size for townhomes, there is not adequate area to plant three trees per lot and meet the required tree area. The development proposed by EYA requires 778 lot trees to meet this requirement. EYA is proposing that the aggregate tree total planted on the site be allowed to count towards the minimum lot tree requirement, although the trees are provided off the lots. EYA is currently proposing to provide a total of six hundred and eighty-four (684) trees on the site, off the lots. One hundred and eleven (111) of these trees are provided in addition to other forestry requirements on the site. Staff has worked with the developer to maximize plantings under the current site design.

In order to grant a waiver of the three trees per residential lot requirement, the Planning Commission must find that undue hardship will result from strict compliance with this requirement, and the Commission may grant a waiver from such requirement so that substantial justice may be done if the public health, safety, aesthetics, or general welfare will not be impaired, and the waiver will not be contrary to the intent and purpose of the Plan or the Zoning Ordinance. In reviewing the proposed development, it is evident that the design of the townhouse lots and the limited amount of planting area makes it impossible to accommodate multiple tree plantings on each residential lot.

Staff supports this waiver request, and the annexation agreement commits staff to recommending that the Planning Commission approve it as part of its review of EYA's site plan application. The Planning Commission has previously approved similar waivers on other townhouse projects. A letter from the applicant detailing their proposed waiver request is included in the exhibits for the agreement.

### **Street cross-sections**

EYA's proposed development requires waiver of road code standards by the Director of Public Works and the Mayor and Council. Staff finds that supporting this waiver is consistent with the intent of the Code and has recently become a routine aspect of newly proposed residential subdivisions. Staff also acknowledges that the road code waivers are minor in nature, and the proposed road sections provide all required elements for safe and efficient pedestrian, bicycle, and vehicular travel. The waivers to be requested by the applicant include the reduction of small sections of the right of way width from the minimum 60 feet to 51 feet, and the reduction of the minimum pavement width of 26 feet to 22 feet in certain areas for secondary residential streets. The right of way in areas where reduced still include all necessary elements like buffered 5-foot wide sidewalks and the required lane widths in each direction of travel. The

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<sup>1</sup> The current ordinance has one common requirement for residential lots and does not call out a specific trees per lot requirement for townhome lots. However, staff has proposed an ordinance amendment to address this.

areas of reduced pavement width occur in locations of the subdivision near intersections and/or pedestrian crossings, around curves, or on short segments of roadway where the parking is not included. These are generally areas where parking is not necessary or recommended for safety reasons and by general design practice. Staff notes that parking is adequately accommodated through the site and is not concerned with these small areas where the proposed roadway width will be reduced to prohibit parking. The annexation agreement acknowledges that these waivers to the City's road code are required to accommodate the development as proposed by EYA.

The annexation agreement also obligates staff and the Mayor and Council, as applicable, to grant the required road code waivers for the road sections as shown on the submitted cross sections exhibit referred to in the Annexation Agreement, if requested by applicant. As a next step pertaining to this item, staff proposes to bring the road code waivers to the Mayor and Council for approval as a consent agenda item soon.

#### **Parking for proposed community center**

Based on the parking requirements in the zoning ordinance, ten off-street parking spaces are required for the proposed community center. Instead of providing parking on-site, the applicant is proposing to provide on-street spaces to meet the requirement, including an ADA accessible space. In the MXCD zone, the Mayor and Council, in the approval of a project plan, have the authority to reduce the required number of parking spaces for uses in the building or buildings to be constructed provided that criteria are met. This section provides Mayor and Council discretion in allowing reductions, including "for good cause shown." Staff has reviewed and found that all other parking requirements are met, and visitor parking on the project overall is provided at a rate of .76 spaces per unit, exceeding the recommended ration of .50, including 95 on-street spaces. Since there are more than adequate spaces on the street and the community center is located in the center of the site easily accessible by pedestrians, staff finds that reducing the parking on the community center site to zero and providing ten on-street spaces nearby, the area for the community center is maximized while the parking needs are met. The annexation agreement commits staff to supporting this proposal.

#### **Other Items**

In addition to these items, the agreement also:

- Provides for expeditious reviews based upon our development review process;
- References the approved Preliminary Forest Conservation Plan
- Notes that City staff supports the open space and public use space proposed by EYA and commits staff to recommending approval of the open space and public use space by the Mayor and Council and Planning Commission as part of the project and site plans;
- Commits the City to re-dedicating a portion of Pleasant Drive for use as a public right-of-way;
- Identifies other transportation improvements and right-of-way dedication;
- Provides easements and construction access for the King Farm Farmstead;

- Establishes that undergrounding of existing utilities along Fredrick Road is not required except for the electrical connection to King Farm Farmstead;
- Notes that the proposed development satisfies the City's school adequacy test for developments tested during the 2021-2022 school year;
- States that Rockville will support EYA in obtaining water and sewer services from WSSC including easements;
- Outlines requirements for historic review;
- For a period of up to five years from the issuance of the final building permit for the proposed development, commits Rockville to approving or providing necessary easements on Rockville property to support EYA's connections to existing storm drain, water and sewer facilities, and other utilities to the extent such connections and easements have no material impact on Rockville's interests;
- Notes that the owner of the City portion of the property EYA proposes for development is not bound by the King Farm Annexation Agreement;
- Provides that Rockville will cooperate with Montgomery County if necessary regarding EYA's request for County impact tax credits; and
- Establishes term for compliance with the design guidelines in the zoning ordinance.

#### Agreement Effective Date and Withdrawal of Petition for Annexation

By its terms, the annexation agreement will not become effective until the annexation is effective under Maryland law, forty-five days after the Mayor and Council adopt the annexation resolution. The annexation agreement further provides that EYA and the current property may withdraw their petition for annexation after the annexation resolution is adopted but before the annexation is effective. Under the agreement, if the City receives notice of the withdrawal of the annexation petition no later than nine days before the annexation's effective date, the City is obligated to take such action necessary to rescind the annexation, which would likely be adoption of a resolution to that effect by the Mayor and Council. This provision is consistent with a similar provision the City agreed to in the annexation agreement for the King Farm development.

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### **Mayor and Council History**

On November 23, 2020, the Mayor and Council voted to initiate the annexation process. On March 1, 2021, Mayor and Council voted to authorize the release of easement on the property. On April 12, 2021, the Mayor and Council discussed key provisions of the proposed agreement and adopted the annexation plan. On May 17, 2021, Mayor and Council held the public hearing on the annexation, and on June 12, 2021, Mayor and Council held D&I on the annexation and introduced the ordinance to amend the zoning ordinance. On July 19, 2021, Mayor and Council held introduction, discussion, and instructions on the annexation agreement.



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## Public Notification and Engagement

A virtual preapplication area meeting was held on November 24, 2020. A virtual post-application area meeting was held on June 3, 2021 for the project plan and another on August 31, 2021 for the site plan.

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## Next Steps

At the September 13<sup>th</sup> meeting, the Mayor and Council may choose to adopt the proposed agreement and authorize the City Manager to execute. Following this action, the agreement will be executed prior to the adoption of the annexation resolution and would become effective upon the annexation of the property.

## Attachments

Attachment 13.a: Annexation Agreement\_FINAL DRAFT (PDF)

Attachment 13.b: Agreement Exhibits Combined (PDF)



Rob DiSpirito, City Manager

9/8/2021

## ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (hereinafter referred to as “**Agreement**”), made this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and among (i) VICTOR, INC., a Maryland corporation (hereinafter referred to as “**Owner**”), (ii) KBSG ASSOCIATES LLC, a Delaware limited liability company (hereinafter referred to as “**EYA**”), and (iii) the MAYOR AND COUNCIL OF ROCKVILLE, a municipal corporation of the State of Maryland (hereinafter referred to as “**Rockville**”) (collectively hereinafter referred to as the “**Parties**”).

### RECITALS:

WHEREAS, Owner owns approximately 10.23313 acres of land addressed as 16200 Frederick Road, as more particularly described and depicted on Exhibit “A”, attached hereto and made a part hereof (hereinafter referred to as “**Subject Property**”); and

WHEREAS, Owner filed a petition for annexation with Rockville on November 12, 2020 (hereinafter referred to as “**Petition**”) requesting that Rockville annex the Subject Property, as well as certain property within the Maryland 355 right-of-way owned by the State Roads Commission (hereinafter referred to as “**SRC Property**”), which together with the Subject Property totals 11.96405 acres, more or less, pursuant to the Petition (collectively, the “**Property To Be Annexed**”) and

WHEREAS, EYA is the contract purchaser of the Subject Property and the property that immediately abuts the Subject Property identified as Parcel P170, on Tax Map No. G521 containing approximately 10.34 acres, more or less, also owned by Owner and currently located within the municipal boundaries of Rockville (hereinafter referred to as “**City Parcel**” and collectively, the “**Properties**”); and

WHEREAS, the Property To Be Annexed is contiguous to and adjoins the existing corporate boundaries of Rockville and annexation thereof does not create an unincorporated area that is bounded on all sides by: (i) property presently in the boundaries of the municipality, (ii)

proposed to be in the boundaries of the municipality, or (iii) any combination of property described in (i) or (ii); and

WHEREAS, it has been verified that no registered voters are residents on the area to be annexed and that Owner owns at least twenty-five (25%) of the assessed valuation of the real property in the area to be annexed; and

WHEREAS, pursuant to Maryland Code (2013) § 4-404(b) of the Local Government (hereinafter referred to as “**LG**”) Article, Rockville verified the signatures on the Petition and that the Petition met the requirements of LG § 4-404(a) and promptly caused a resolution proposing the change of boundaries as requested by the Petition to be introduced on November 23, 2020 (hereinafter referred to as “**Resolution**”) by the Mayor and City Council of Rockville (hereinafter referred to as “**Mayor and Council**”); and

WHEREAS, public notice of the Resolution was published at least two times at not less than weekly intervals in at least one newspaper of general circulation in the municipality and the area to be annexed; and

WHEREAS, immediately after the first publication of the public notice, the Mayor and Council provided a copy of the public notice to the County Council for Montgomery County and the Maryland-National Capital Park and Planning Commission; and

WHEREAS, pursuant to LG § 4-415, the City of Rockville Planning Commission (hereinafter referred to as “**Planning Commission**”) prepared a preliminary annexation plan (hereinafter referred to as “**Preliminary Annexation Plan**”) for the area; and

WHEREAS, the Planning Commission held a public hearing on the Preliminary Annexation Plan on February 10, 2021, after providing 15 days’ notice of the time and place of the hearing published in a paper of general circulation in Rockville and written notice mailed in accordance with the applicable provisions of the Zoning Ordinance of the City of Rockville (hereinafter referred to as “**Rockville Zoning Ordinance**”); and

WHEREAS, on March 10, 2021, the Planning Commission approved the Preliminary Annexation Plan (hereinafter referred to as the “**Planning Commission Approved Annexation Plan**”) for recommendation and transmittal to the Mayor and Council; and

WHEREAS, on April 12, 2021, the Mayor and Council adopted the Planning Commission Approved Annexation Plan for release for public hearing; and

WHEREAS, at least 30 days before the public hearing on the Resolution, a copy of the Adopted Annexation Plan was provided to the County Council for Montgomery County, the Maryland State Department of Planning, and the Maryland-National Capital Park and Planning Commission; and

WHEREAS, on May 17, 2021, pursuant to the aforesaid notices, the Mayor and Council conducted a public hearing on the Adopted Annexation Plan simultaneously with its hearing on the Resolution and proposed classification to the MXCD Zone, which hearing was no sooner than 15 days after the final required publication of the public notice; and

WHEREAS, the Adopted Annexation Plan was open to public review and discussion at the public hearing on the Resolution; and

WHEREAS, on June 21, 2021, the Mayor and Council introduced an Ordinance to amend the Rockville Zoning Map to classify the Property To Be Annexed in the MXCD Zone (hereinafter referred to as “**Ordinance**”); and

WHEREAS, annexation of the Property To Be Annexed will be (i) consistent with the municipal growth element of the Rockville Comprehensive Plan and other land use policies of Rockville, (ii) supported by adequate municipal facilities reasonably necessary for the proposed use, including facilities for schools, water or sewage treatment, libraries, recreation or fire or police services, and (iii) will establish more concise and reasonable boundaries for the Rockville corporate limits; and

WHEREAS, on October 4, 2021, Rockville intends to adopt the Resolution and annex the Property To Be Annexed as requested by Owner, and, simultaneously with the adoption of the Resolution, adopt the Ordinance to classify the Property To Be Annexed in the MXCD Zone for development in accordance with Chapter 25, Article 7 of Rockville's Zoning Ordinance (hereinafter referred to as "**Article 7**") and subject to certain development provisions contained in this Agreement; and

WHEREAS, on May 3, 2021, EYA filed a project plan application in compliance with the requirements of the MXCD Zone for the Properties (hereinafter referred to as "**Project Plan Application**"); and

WHEREAS, on August 13, 2021, EYA filed a Site Plan application in conformance with the Project Plan Application for the Properties (hereinafter referred to as "**Site Plan Application**").

NOW, THEREFORE, in consideration of the foregoing recitals, each of which shall be deemed a part of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties covenant and agree as follows:

1. Zoning and Proposed Development

a. Upon annexation of the Subject Property into Rockville, the Subject Property shall be validly classified in the MXCD Zone. Owner and EYA acknowledge that all subdivision and development on the Subject Property (i) shall be pursuant to Article 7 as presently in effect, or as may be hereinafter amended from time to time and requiring, among other approvals, a project plan and site plan(s), (ii) may be in general conformance with the Concept Plan attached hereto and made a part hereof as Exhibit "B" (hereinafter referred to as "**Concept Plan**"), and (iii) may provide for up to 370 dwelling units, or 1.5 FAR, in a variety of dwelling types which may consist of 253 townhouses and 118 multi-family 2-over-2 dwellings (with a maximum height of 55 feet) (hereinafter referred to as the "**Proposed Development**"). Although

not proposed by Owner and EYA and not included in the Proposed Development, if Owner and Developer propose commercial development on the Property in the future, such development shall be limited to 2,500 square feet.

b. In addition to providing the minimum of 15% of all dwelling units within the Proposed Development as moderately priced dwelling units (hereinafter referred to as “MPDUs”) as required by Article 13.5 of the Rockville City Code as presently in effect (hereinafter referred to as “**Article 13.5**”), EYA agrees to provide an additional two (2) dwelling units within the Proposed Development as MPDUs for a total of fifty-eight (58) MPDUs. MPDUs in the Proposed Development shall be distributed as follows: eight (8) three-bedroom townhomes at 50% Area Median Income (“**AMI**”); twelve (12) three-bedroom townhomes at 60% AMI; twenty (20) three-bedroom townhomes at 80% AMI; eight (8) 2-over-2 units at 50% AMI; and ten (10) 2-over-2 units at 60% AMI. As permitted by Article 13.5, MPDUs shall be reasonably dispersed throughout the Proposed Development and may be grouped in pairings of up to three units. In the 2-over-2 units, all MPDUs may be located on the lower level, and in the townhome units, MPDUs may be located in rear-loaded units.

c. Rockville acknowledges that the Properties may be developed as a mixed-use residential development as described in Paragraph 1a. and b. above. In this regard, Rockville understands that Owners and EYA are seeking annexation of the Subject Property by Rockville in order to develop the Properties with a mixed-use residential development as described in Paragraph 1a. and b. above and agrees that Owners and EYA may develop the Properties as conceptually shown on the Concept Plan, subject to approval of all necessary regulatory plans and permits, including, but not limited to, the Project Plan Application and Site Plan Application, and the terms and conditions of this Agreement. Rockville further acknowledges and agrees that, subject to the terms and conditions of Paragraph 1a. and b. of this Agreement, the development density to be permitted on the Properties shall (i) be in substantial compliance with the unit numbers and gross floor area specified for the Proposed Development; and (ii) not be reduced as a result of dedications, reservations and/or acquisitions for public use as identified in this Agreement or otherwise provided (*i.e.*, the density shall be based on the area of the Properties prior to dedications, reservations and/or acquisitions).

d. Rockville agrees to use reasonable efforts to expedite the review and processing of the Project Plan Application and Site Plan Application, record plats(s) and all other required development approvals and permits to allow the development, construction, and occupancy of the Proposed Development (collectively hereinafter referred to as the “**Development Approvals**”), consistent with the City’s development review process, the Project Plan and this Agreement.

2. Rockville acknowledges that, by letter dated August 26, 2021, a copy of which is attached hereto as Exhibit “C”, the City Forester or authorized designee approved the Preliminary Forest Conservation Plan for the Project Plan Application (hereinafter referred to as the “**Approved Preliminary FCP**”). No further approval of the Approved Preliminary FCP by the Planning Commission or Mayor and Council is required for approval of the Project Plan Application. This approval has determined that (i) development of the Properties with the Proposed Development requires a total afforestation and planting requirement of 3.09 acres, (ii) all afforestation and planting requirements are met on site, (iii) twenty nine (29) replacement trees must be planted on site, (iv) the minimum tree coverage of 10% of the net tract area (approximately 2.0 acres) is satisfied, and (v) removal of two specimen trees and the impact shown to two other specimen trees shall be permitted pursuant to Section 10.5-21(e) of the Rockville City Code.

3. Rockville acknowledges that the implementation of the Proposed Development in general conformance with the Concept Plan will require waivers of Sections 25.21.21.a and 25.21.21.b of the Rockville Zoning Ordinance to permit flexibility in the required spacing and number of trees per residential lot by satisfying the requirements of Sections 25.21.21.a and 25.21.21.b by providing (i) an aggregate number of trees equal to 2.6 trees per lot which may be located anywhere on the Properties and (ii) reducing the number of street trees within the public right-of-way by 12% (hereinafter referred to as the “**Tree Request**”). Rockville Staff has reviewed the Tree Request attached hereto as Exhibit “D” and finds that the Tree Request satisfies all required findings for approval of the necessary waivers of Sections 25.21.21.a and 25.21.21.b and will recommend that the Planning Commission approve the Tree Request at time of Site Plan.



4. As part of the Concept Plan and Project Plan, Owner and EYA propose open space areas in the locations and amounts as shown on the Concept Plan and Project Plan (hereinafter referred to as **“Open Space”**). Rockville Staff has reviewed the Open Space and agrees that, if the Open Space is included in the Project Plan Application and Site Plan Application, it satisfies all open space requirements of the Rockville Zoning Ordinance and all other laws and regulations necessary for approval, including, but not limited to, the provision of the required amount of usable area for public use space, and Rockville staff will recommend that the Mayor and Council approve the Open Space as part of the Project Plan Application and that the Planning Commission approves the Open Space as part of the Site Plan Application. The Parties agree to work together to program the Open Space with mutually acceptable amenities and to provide a private community amenity for the residents of the Proposed Development such as a community building.

5. Rockville, through its Director of the Department of Public Works (**“Director of Public Works”**), has reviewed and approved the Pre-Application Stormwater Management Concept Plan included in the Project Plan Application (hereinafter referred to as the **“SWM Plan”**) by letter dated June 17, 2021, attached hereto as Exhibit “E” (hereinafter referred to as the **“June 17, 2021 Letter”**). In addition to the SWM Plan, Rockville, through its Director of Public Works, has reviewed and approved the Annexation Storm Water Management Concept Plan (the **“ASWMCP”**) submitted by EYA as part of the Project Plan Application by letter dated August 31, 2021, attached hereto as Exhibit “F” (hereinafter referred to as the **“August 31, 2021 Letter”**). Stormwater facilities in public rights-of-way as shown on the ASWMCP to be maintained by the Owner and EYA are acceptable, and the Director of Public Works will recommend that the Mayor and Council authorize any Revocable License and Maintenance Agreement required for such purpose. The Parties agree to comply with the terms and conditions of the SWM Plan, June 17, 2021 Letter, and August 31, 2021 Letter.

6. a. Owner agrees to dedicate the delineated areas to public use along the frontage of the Properties for the widening of Frederick Road (hereinafter referred to as **“Dedication Area”**) as shown on the MD 355 R/W Future BRT Alignment Plan (hereinafter referred to as **“MD-355/BRT Alignment Exhibit”**) attached as Exhibit “G”. The Dedication Areas will be shown on the Project Plan. EYA agrees to construct the improvements shown within

the Dedication Area on Exhibit “G” (hereinafter referred to as “**Frederick Road Improvements**”) subject to approval and permitting by the Maryland State Highway Administration and all necessary governmental or quasi-governmental entities or agencies. The Parties agree the Dedication Area and Frederick Road Improvements (i) result in a minimum right-of-way for Frederick Road (MD 355) of 150 feet, (ii) incorporate design alignment for the MD 355 Bus Rapid Transit (BRT) project to be built by others, (iii) incorporate the area required to accommodate the future cycle track as planned in Rockville’s Bikeway Master Plan, and (iv) incorporate Vision Zero improvements along MD 355, including a minimum 6-foot landscape buffer adjacent to vehicular travel lanes, and limit curb radii to a maximum of 25 feet.

b. As shown on Exhibit “G” and subject to (i) approval and permitting by Maryland State Highway Administration and all necessary governmental or quasi-governmental entities or agencies, and (ii) no requirement to underground or relocate utilities, EYA agrees to implement the Montgomery County recommended Vision Zero improvements along MD 355, including the construction of a ten (10)-foot-wide cycletrack and six (6)-foot-wide sidewalk separated from the cycletrack by an eight (8)-foot green panel, subject to minor modifications as needed for accommodating existing above-ground utilities to remain. This improvement will be adjacent to the vehicular travel lanes along the frontage of the Properties and the curb radii shall be limited to a maximum of twenty-five (25) feet, or such curb radii as required by the Maryland State Highway Administration. As part of this construction, EYA shall remove the existing sidewalk along the MD 355 property frontage within the dedicated right-of-way.

7. Rockville, through its Director of Public Works, has reviewed the On-Site Roadways and roadway cross-sections submitted as part of the Project Plan Application (hereinafter referred to as the “**Cross-Sections**”), attached hereto as Exhibit “H”, and determined (i) that the implementation of the On-Site Roadways and Cross-Sections will necessitate the approval of modifications to the standard Rockville roadway cross-sections as shown in the Cross-Sections; (ii) construction of the On-Site Roadways as described therein, including the connection with Pleasant Drive, is necessary for the implementation of the Proposed Development as generally shown in the Concept Plan, promotes the public interest, and is consistent with the general purposes, intent, and standards of Article IV of City Code Chapter 21; and (iii) if requested

by Owner and EYA as part of the Project Plan Application or Site Plan Application, the Director of Public Works, City Manager and Mayor and Council, as applicable, will approve all modifications to the standard Rockville roadway cross-sections necessary to permit the Cross-Sections. Subject to the terms of the Director of Public Works letter dated September 3, 2021, attached hereto as Exhibit "I", and without limitation of the foregoing, Rockville agrees to allow road turning radii to be reduced to 100 feet, dead-end alleys to be constructed that serve four or fewer units and dead-end streets to be constructed in the locations shown on the Concept Plan.

8. The limits of dedication for all public and private roads to be constructed on the Properties (hereinafter referred to as the **"On-Site Roadways"**) are shown in the Concept Plan and Project Plan Application. The Parties agree that, if requested by Owner and EYA as part of the Project Plan Application, in general conformance with the Concept Plan, Owner and EYA must (i) construct all of the On-Site Roadways as public roads dedicated to public use and all alleys as private alleys, with recorded public access easements; (ii) provide two points of access, one on Frederick Road, a second on Pleasant Drive; (iii) provide the improved access to the King Farm Farmstead property owned by Rockville and abutting the City Parcel (hereinafter referred to as **"Farmstead"**) from MD 355; and (iv) the Proposed Development will be permitted to connect to Pleasant Drive by Rockville and Rockville will record a dedication plat, to be prepared by EYA and approved by Rockville prior to recordation, at the time of Project Plan Application approval to extend the public right of way for Pleasant Drive as a public street to make the connection to the Proposed Development (the **"Connection"**). Rockville shall issue all permits and approvals needed for the Connection at the time engineering plans for the Project are approved. EYA and Owner agree to construct pedestrian-related improvements north of the proposed Pleasant Drive and Street F intersection within the public right-of-way as generally shown on the Concept Plan or with such minor modifications as mutually agreed to by EYA and Rockville.

9. Upon grant of an access easement to the Farmstead in a form acceptable to Rockville by the owner of the City Parcel, Rockville shall execute and record a release of all right, title or interest it may have pursuant to the Declaration of Covenants recorded among the Land Records of Montgomery County, Maryland at Liber 13746, Folio 705. EYA agrees to relocate

and underground the existing electrical connection to the Farmstead from Route 355/Frederick Road as shown on Exhibit “J”.

10. Rockville Staff has reviewed the Comprehensive Transportation Study (hereinafter referred to as **“Traffic Report”**) for the Proposed Development submitted with the Project Plan Application and containing a signal warrant study for the full access site driveway on Frederick Road as shown on the Concept Plan, for compliance with the City of Rockville’s Comprehensive Transportation Review (hereinafter referred to as **“CTR”**), Adequate Public Facilities provisions of Article 20 of the Rockville Zoning Ordinance and Rockville Adequate Public Facilities Standards and finds: (i) design and construction by EYA of a traffic signal and all interconnections or other related improvements as required by SHA and/or Montgomery County necessary to install the traffic signal at the full access site driveway at Frederick Road as part of the implementation of the Proposed Development is warranted subject to the approval and permitting from the State Highway Administration and any other necessary governmental or quasi-governmental entities or agencies, (ii) EYA shall construct the pedestrian connections at Pleasant Drive and Piccard Drive as generally shown on the Concept Plan, or with such minor modifications as mutually agreed to by EYA and Rockville, (iii) no further intersection mitigation measures are necessary to support the Proposed Development, and (iv) all other requirements of the CTR and adequate public facilities requirements of Article 20 of the Rockville Zoning Ordinance, including, without limitation, the Rockville Adequate Public Facilities Standards as they pertain to transportation are satisfied if the Proposed Development is implemented in accordance with the Concept Plan through the Project Plan Application and Site Plan Application.

11. Rockville acknowledges that based on the Concept Plan, the amount and location of parking required for the community center will require application of flexible parking standards by the Mayor and Council under Section 25.16.03.h of the Rockville Zoning Ordinance. Rockville Staff supports the application of flexible parking standards to accommodate the amount and location of such parking shown on the Concept Plan and will recommend that the Mayor and Council approve the use of such flexible parking standards at the time of its review of the Project Plan Application. Rockville agrees that long-term bicycle parking for residential uses is not required by the Rockville Zoning Ordinance.

12. Currently, overhead utilities exist along the Frederick Road frontage of the Property. Rockville acknowledges that these overhead utilities shall not be required or recommended by Rockville to be placed underground. Rockville agrees to adjust the streetscape section along Frederick Road as shown on the MD-355/BRT Alignment Exhibit or in a similar manner based on final design approved by MCDOT, SHA and Rockville to allow the impacted overhead utilities to remain in place.

13. As part of its review and approval of the Adopted Annexation Plan and Resolution, Rockville acknowledges that it evaluated the Proposed Development pursuant to the standards set forth in the applicable requirements of Article 20 of the Rockville Zoning Ordinance, the Rockville Adequate Public Facilities Standards and Montgomery County's 2020-2024 Growth and Infrastructure Policy pertaining to schools, including, but not limited to, the applicable school generation figures developed by Montgomery County Public Schools, and determined that schools are adequate to support the student generation from the Proposed Development for any determination of adequate public facilities made during the 2021-2022 school year without additional conditions or staging of construction.

14. Rockville acknowledges that compliance with the Adequate Public Facilities requirements of Article 20 of the Rockville Zoning Ordinance and the Rockville Adequate Public Facilities Standards are determined at Project Plan approval and remain in effect for all development approvals for the duration of the applicable validity period. As part of the Project Plan Application, EYA has requested a 12-year Project Plan validity period pursuant to Section 25.07.07.18(b). Rockville Staff has reviewed this request and will recommend that the Mayor and Council approve a Project Plan validity period of 12 years.

15. Rockville recognizes that the Properties are entitled to receive adequate public water and sewer treatment capacity to serve the Proposed Development. If requested by EYA, Rockville agrees to cooperate, assist and support EYA in obtaining such service from the Washington Suburban Sanitary Commission (hereinafter referred to as "WSSC") to serve the Proposed Development. WSSC has no obligations or liabilities under this Agreement.

16. To the extent Rockville's approval of any locations for connections to existing storm drain, water and sewer facilities and other utility connections or easements are deemed necessary by the Parties or WSSC to serve the Proposed Development, Rockville will grant and approve such connections and grant any necessary easements for same on land owned or controlled by Rockville, so long as said connections and easements have no adverse material impact on the existing storm drain, water and sewer facilities, or land owned by Rockville and subject to the receipt of all customary engineering detail and required applications for approvals and permits and payment of all required fees. Rockville's obligations under this paragraph shall terminate upon issuance of the final building permit for the Proposed Development or five (5) years from the date of this Agreement, whichever occurs first.

17. Rockville, Owner and EYA agree to cooperate with one another to carry out the terms of this Agreement, including, but not limited to, the execution of any and all documents and taking such actions that are necessary to carry out the terms and conditions of this Agreement in an expeditious manner.

18. a. Rockville acknowledges that under Section 25.07.02 of the Rockville Zoning Ordinance, the Chief of Planning has reviewed the Properties and all existing improvements thereon and has determined that neither the Properties nor any of the improvements have any historic significance or otherwise qualify as historic resources under the Rockville Zoning Ordinance or any other applicable laws and regulations. Rockville agrees that Owner or EYA may demolish all of the improvements and construct the Proposed Development without any further historic studies, analyses or reviews.

b. Owner and EYA agree that at the time of Project Plan Application review by the Mayor and Council, the Rockville Historic District Commission may conduct a courtesy review of the Proposed Development to review its relationship to the Farmstead and provide non-binding comments to EYA and the Mayor and Council of Rockville.



19. a. EYA agrees to design and construct a parking lot with forty-seven (47) parking spaces on the Farmstead, including the necessary utilities, stormwater management facilities, forestry plantings, landscaping, lighting, ADA-compliant parking spaces, and an ADA-accessible connection to the Farmstead as generally shown on the parking plan attached hereto as Exhibit “J” (the **“Farmstead Parking Plan”**) (hereinafter referred to as **“Farmstead Improvements”**). The final number of parking spaces shall be subject to final design and review by the Parties and may be reduced by mutual agreement of the Parties.

b. EYA agrees to (i) coordinate with SHA as necessary on the construction of the Farmstead entrance concurrently with any coordination with SHA necessary for the Proposed Development, (ii) prepare the necessary design plans for the Farmstead Improvements in coordination with Rockville (the **“Farmstead Design Plans”**), (iii) submit the Farmstead Design Plans to Rockville no later than sixty (60) days after the date of the Mayor and Council resolution approving the Project Plan Application, (iv) support Rockville in the preparation of development approval applications and obtaining of approvals and permits for the Farmstead Improvements, (v) comply with the terms and conditions of all approvals and permits for the construction of the Farmstead Improvements, and (vi) at the completion of construction, provide as-built drawings of the Farmstead Improvements to Rockville.

c. Rockville agrees (i) to obtain and provide EYA with all necessary development approvals and permits for the construction of the Farmstead Improvements (the **“Farmstead Permits”**) within six (6) months of the commencement of clearing and grading on the Properties (the **“Start Date”**), (ii) to provide all necessary rights of entry to the Farmstead and execute all necessary documents required for construction of the Farmstead Improvements as owner of the Farmstead, (iii) to cooperate with other governmental or quasi-governmental agencies to implement the construction of the Farmstead Improvements.

d. If Rockville does not provide the Farmstead Permits to EYA by the Start Date, then EYA shall provide Rockville all Farmstead Design Plans prepared as of the Start Date, which shall become the sole property of Rockville, and EYA shall pay Rockville a contribution for the Farmstead in an amount equal to the cost of construction of the Farmstead Improvements



(the “**Contribution**”). The amount of the Contribution shall be agreed to by EYA and Rockville and shall be based on a construction estimate to be prepared by EYA using accepted industry standard costs for such construction in the Rockville, Maryland area (the “**Construction Costs**”). The Construction Costs shall consist of the items identified on the Farmstead Parking Plan. Construction Costs shall not include overhead, administration, or inflation and shall be determined using the item costs in effect on the first day following the Start Date. If the Parties fail to agree on the Construction Costs, an independent third-party construction cost estimator with qualifications as an expert in the field (the “**Estimator**”) shall be mutually agreed to by the Parties to review the construction cost estimate and determine a commercially reasonable construction cost amount (the “**Final Estimate**”). Payment of the Estimator’s fee shall be shared equally by Rockville and EYA. The Estimator shall detail the elements included in the Final Estimate and provide a cost breakdown of the individual unit costs used to determine the Final Estimate. EYA shall pay the amount of the Final Estimate to Rockville within sixty (60) days of receipt of the written report of the Estimator. Upon payment of the contribution, EYA shall have fully satisfied its obligations and responsibilities with reference to the Farmstead Improvements and this Paragraph 19 and shall have no further obligations or liabilities for such Farmstead Improvements.

e. The City agrees to aid, assist, and cooperate with EYA in good faith in obtaining any temporary and/or permanent easement rights that may be necessary to construct the Farmstead Improvements.

f. The Farmstead Improvements must be completed and accepted by Rockville prior to the issuance of the 50<sup>th</sup> occupancy permit for the Project if the Farmstead Improvements are constructed by EYA. The acceptance by the City of the Farmstead Improvements shall not be unreasonably withheld, delayed or conditioned by Rockville.

20. Impact Taxes. Rockville agrees to cooperate with and provide any information requested by Montgomery County regarding impact tax credits sought by EYA for the Proposed Development pursuant to Sections 52-41(h)(3) and 52-47 of the Montgomery County Code.

21. Effective Date of Agreement. This Agreement shall not become effective until the Resolution is enacted by Rockville and becomes effective pursuant to Subtitle 4 of the LG Article, including the conclusion of any referendum instituted pursuant to LG §§ 4-408 through 4-414 (hereinafter referred to as “**Effective Date of Annexation**”). Owner and EYA shall have the right, in its sole discretion, upon written notice to Rockville received by Rockville no later than nine (9) days before the Effective Date of Annexation, to withdraw the Petition, and upon receipt of such notice, Rockville shall take such action as necessary to withdraw or abandon the Resolution such that the annexation of the Subject Property shall not occur. In such event, this Agreement shall be terminated, whereupon the Parties shall have no further rights or obligations with regard to this Agreement. The failure of EYA to exercise its right to withdraw the Petition as provided in this paragraph shall not be deemed a waiver or release of any right or remedy of Owner or EYA as provided by law or this Agreement.

22. The City Parcel was annexed by the City by Annexation Petition No. X11091 as part of a larger tract containing approximately 440 acres (hereinafter referred to as the “**King Farm**”). An Annexation Agreement for the King Farm was signed by the then owners of the City Parcel property and Rockville on August 7, 1995 (hereinafter referred to as the “**King Farm Annexation Agreement**”) and recorded in the Land Records of Montgomery County, Maryland, at Liber 13746 at folio 539 and re-recorded at Liber 13811 at folio 73. The Owner, as successor to the then owner of the City Parcel, and Rockville agree that the obligations and conditions contained in the King Farm Annexation Agreement do not affect or otherwise bind, obligate or inure to the benefit of Owner in its capacity as the owner of the City Parcel, and neither Owner nor any current and/or future owner of the City Parcel shall have any obligations or liabilities under the King Farm Annexation Agreement with respect to the City Parcel.

23. Rockville Staff has reviewed the Concept Plan and Project Plan Application and finds that, if included in the Project Plan Application in general conformance with the Concept Plan, Rockville Staff will support and recommend that the Mayor and Council or Planning Commission, as applicable, approve the following design elements and conditions at time of Project Plan Application or Site Plan Application review: (i) heights of buildings along Frederick Road, as shown in the Concept Plan may be up to fifty-five (55) feet; (ii) building façade lengths

that are in excess of two hundred fifty (250) feet must appropriately vary the façade heights and their exterior walls, including sides and backs, may include windows, arcades, awnings or other acceptable features for thirty percent (30%) of the building's length along public streets; (iii) roof designs must be consistent with the two-over-two residential units, be constructed of light color surfaces, and reflect typical construction methods for the product type, and no vegetation shall be required on the roofs; (iv) the proposed 2-over-2 units along Frederick Road as shown in the Concept Plan will not be required to have any ground floor retail, fifteen (15)-foot ceiling height or be designed to facilitate conversion to retail or other commercial uses; (v) all requirements for community spaces and central features as shown on the Site Plan Application will satisfy the intent of the applicable design guidelines by providing (a) pedestrian-scale features, spaces and amenities, and (b) lighting, seating areas, outdoor plazas and patios within at least two (2) areas of the Properties; (vi) the setbacks and buffers shown on the Concept Plan provide appropriate relationships to adjoining properties and uses and comply with the intent of the Design Guidelines and no further buffers, setbacks, or layby slopes are needed; and (vii) the façades of the buildings will not be required to include an express line above the first floor level or a defined cornice at the top of the façade wall.

24. Binding Effect.

a. The provisions of this Agreement are and shall be deemed to be covenants running with the land and shall be binding upon and inure to the benefit of Owner and EYA and their respective successors and assigns with an interest in the Properties, and upon Rockville and any successors to Rockville. Notwithstanding the foregoing, the obligations and liabilities under this Agreement of any owner of the Properties shall apply to such party only during the period of time such party is a fee simple owner of all or any portion of the Properties and only as such obligations and liabilities relate to and concern the portion of the Properties then owned by such party. If Owner or EYA or its successors and assigns convey their respective fee simple interest in the Properties, or any portion of the Properties, then at the time of conveyance, unless the instrument of conveyance provides otherwise, the transferor shall automatically be relieved of any and all obligations and liabilities under and pursuant to this Agreement with respect to the portion of the Properties so conveyed, and the transferee shall automatically assume and take title subject

to all of the transferor's obligations and liabilities under and pursuant to this Agreement with respect to the portion of the Properties so conveyed. If the Properties are owned by more than one owner, a default or failure of compliance by an owner with respect to any of its obligations or covenants under this Agreement or with respect to the implementation of the Proposed Development which relates solely to such owner's portion of the Properties, as determined by Rockville, shall not constitute a default or failure of compliance under this Agreement by any non-defaulting owners, impair the issuance or effectiveness of any approvals or permits for the Proposed Development located on portions of the Properties owned by non-defaulting owners, or otherwise subject non-defaulting owners to adverse action by Rockville under this Agreement or otherwise. For the purposes of the preceding sentence and notwithstanding any other provision of this Paragraph 24, the obligations of Owner and EYA set forth in Paragraphs 1.b, 2, 4, 5, 6, 8, and 19 of this Agreement (hereinafter referred to as the "**Master Developer Obligations**") shall be deemed to be solely the obligations of Owner and EYA unless and until the Owner or EYA assigns in writing any of the Master Developer Obligations to another owner of all or part of the Properties. Upon such assignment, the Master Developer Obligations so assigned shall be deemed to be solely the obligations of the assignee or, upon any subsequent assignment of such Master Developer Obligations, solely the obligations of the subsequent assignee or assignees of those obligations.

b. Although the Petition includes property owned by the State Highway Administration (hereinafter referred to as "**SHA**"), SHA is not a party to this Agreement, and this Agreement and all of the obligations and conditions contained herein do not affect or otherwise bind, obligate or inure to the benefit of SHA or the property owned by SHA. SHA has no obligations or liabilities under this Agreement.

c. Subject to the provisions of this Paragraph 24 and Paragraph 26 below, this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto.

d. In the event EYA or an affiliated entity of EYA, as contract purchaser, does not acquire title to the Properties, EYA shall automatically be relieved of any and all liabilities and obligations under and pursuant to this Agreement.

25. Default. Any party to this Agreement may seek relief and remedies in any court of competent jurisdiction for the breach or default of the provisions of this Agreement by any other party. The non-breaching party or parties shall be entitled to seek all available legal and equitable remedies and relief from the court, including (but not limited to) specific performance, injunctive relief, and damages. Notwithstanding anything in this Agreement to the contrary, the rights and remedies provided herein are cumulative and not exclusive, and the failure of a party to exercise any said right or remedy shall not be deemed a waiver or release of any other right or remedy of that party or of any breach or default by the other party.

26. Amendment. This Agreement shall be amended only in writing, signed by (or on behalf of) Rockville, Owner and EYA. Notwithstanding anything else contained in this Agreement, for so long as Owner or EYA owns a fee simple interest in any portion of the Properties, no owner or any other portion of the Properties shall be entitled or required to join in any amendment of this Agreement in order for such amendment to be fully effective and binding unless Owner or EYA expressly assigns to such owner, by an instrument in writing recorded in the Land Records of Montgomery County, the right to execute amendments of this Agreement. Once Owner conveys title to the Subject Property to EYA, "Owner" shall mean EYA for purposes of this Paragraph 26.

27. Representations and Warranties. All Parties hereto represent and warrant that the individuals executing this Agreement on their behalves have the full and complete authority to execute this Agreement and that the signatures which appear below bind the respective Parties to the terms of this Agreement. Rockville further represents and warrants that it has the legal authority, right and power to enter into this Agreement and is bound by its terms.

28. Right to Waive Conditions. Owner and EYA reserve the right to waive any of the terms and conditions of this Agreement that inure to its benefit but not any terms or conditions which benefit Rockville in whole or in part. Any such waiver must be in writing signed by Owner and EYA.

29. Governing Law. All questions with respect to the construction of this Agreement shall be determined in accordance with the laws of Maryland.

30. Interpretation. The paragraph headings used in this Agreement are for reference and convenience only and shall not enter into the interpretation of this Agreement. Wherever this Agreement requires the computation of time from or after a particular triggering date, the triggering date shall not be included in the computation. If any date upon which action is required under this Agreement shall be a Saturday, Sunday or legal holiday, the date for such action shall be extended to the first regular business day after such date which is not a Saturday, Sunday or legal holiday. In the event of any conflict between the Exhibits to this Agreement and the terms of this Agreement, the terms of this Agreement shall govern. This Agreement represents the results of bargaining and negotiations between the Parties and of a combined draftsmanship effort. Consequently, Owner, EYA and Rockville expressly waive and disclaim, in connection with the interpretation of this Agreement, any rule of law requiring that ambiguous or conflicting terms be construed against the party whose attorney prepared this Agreement or any earlier draft of this Agreement. Time is of the essence with respect to the obligations of the Parties hereunder. If any of the covenants, restrictions, or other provisions of this Agreement shall be unlawfully void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England. No agreement, obligation, or covenant of Owner or EYA set forth in this Agreement shall be deemed to be for the benefit of or shall be enforceable by any third party not a party to this Agreement.

31. Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute a single Agreement. All Parties may rely upon an electronic copy of this Agreement executed by any other party, and such copy of this Agreement shall be deemed an original executed copy for all purposes.

32. Recordation. This Agreement shall be recorded in the Land Records of Montgomery County, Maryland.

33. Notices. Any notice required to be given by this Agreement shall be in writing and shall be sent by hand delivery (with signed receipt), commercial overnight courier (which requires a signed receipt), certified mail – return receipt requested, or email transmission (accompanied by one of the preceding forms of transmission) to the following:

- a. City Manager  
Rockville City Hall  
111 Maryland Avenue  
Rockville, Maryland 20850

With a courtesy copy that shall not constitute notice to:

City Attorney  
Rockville City Hall  
111 Maryland Avenue  
Rockville, Maryland 20850

- b. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- c. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, the Parties have caused this Annexation Agreement to be executed as of the day and year first above written.

**[SIGNATURE PAGES FOLLOW]**

DRAFT



**EXHIBIT "A"**

**DESCRIPTION OF THE PROPERTY OF  
 VICTOR, INC.  
 LIBER 16849 FOLIO 367  
 AND A PORTION OF  
 FREDERICK ROAD  
 MARYLAND 355  
 (9<sup>TH</sup>) ELECTION DISTRICT  
 MONTGOMERY COUNTY, MARYLAND**

Being all of the property acquired by Victor, Inc., a Maryland corporation, from Lois, Inc., a Maryland Corporation, by deed dated January 22, 1999 and recorded in Liber 16849 at Folio 367, part of said property also being all of Parcel A, King's Addition to Shady Grove, recorded as Plat No. 7936 and all of Parcel C, King's Addition to Shady Grove, recorded as Plat No. 10684 and also being a portion of Frederick Road, Maryland 355, width varies, as shown on State Highway Administration Plat No. 44324 and 44325 all among the Land Records of Montgomery County, Maryland, and being more particularly described in the datum of Maryland State Plane ( NAD83/2011 ) as follows:

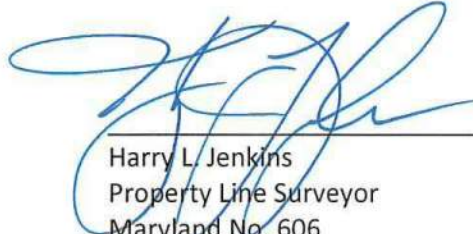
Beginning for the same at a point on the southwesterly line of Frederick Road, Maryland 355, width varies, as shown on State Highway Administration Plat Nos. 44324 and 44325, said point marking the northwesterly end of the fifth (5th) or South 49° 11' 44" East, 40.54 foot deed line of said Liber 16849 at Folio 367, and also marking the common northeasterly corner of Parcel 1, Hunt's Addition to Shady Grove, recorded as Plat No. 9426 among the aforesaid Land Records; thence leaving said common northeasterly corner of Parcel 1 and running so as to cross and include a portion of said Frederick Road, Maryland 355

1. North 40° 37' 53" East, 125.67 feet to a point on the northeasterly line of said Frederick Road, Maryland 355, said point also marking the southwesterly line of Betty Brown Casey, Trustee, recorded in Liber 9304 at Folio 343 among the aforesaid Land Records; thence running with said northeasterly line of Frederick Road and with the common line of said Betty Brown Casey, Trustee and with the common line of Montgomery County, Maryland, recorded in Liber 5369 at Folio 441 among the aforesaid Land Records, the following two (2) courses and distances
2. 363.99 feet along the arc of a non-tangent curve to the left, having a radius of 2804.79 feet and a chord bearing and distance of South 53° 05' 11" East, 363.74 feet to a point; thence
3. South 56° 48' 15" East, 207.55 feet to a point; thence leaving said northeasterly line of Frederick Road and running so as to cross and include a portion of said Frederick Road
4. South 34° 50' 12" West, 137.55 feet to a point on the said southerly line of Frederick Road and also marking the common northwesterly deed line of Frederick Road Limited Partnership as recorded in Liber 13746 at Folio 746 among the aforesaid Land Records; thence leaving said southwesterly line of Frederick Road and running with the common line of said Frederick Road Limited Partnership, the following two (2) courses and distances

5. South 34° 50' 12" West, 649.86 feet to a point; thence
6. North 55° 10' 02" West, 726.21 feet to a point on the southeasterly line of Lot 3, Block B, Zetts Subdivision, recorded as Plat No. 1525 among the aforesaid Land Records; thence leaving said common line of Frederick Road Limited Partnership and running with the common line of said Lots 3 and 4, Zetts Subdivision and with a portion of Parcel 3, Hunt's Addition to Shady Grove, recorded as Plat No. 15074 among the aforesaid Land Records
7. North 32° 26' 32" East, 192.40 feet to a point; thence running with the common line of said Parcels 1 and 3, Hunt's Addition to Shady Grove
8. North 52° 22' 22" East, 500.49 feet to the point of beginning, containing 521,154 square feet or 11.96405 acres of land.

The undersigned hereby states that the metes and bounds description hereon was prepared by myself or under my direct supervision and that it complies with the Minimum Standards of Practice for Metes and Bounds Descriptions as established in Title 9, Subtitle 13, Chapter 6, Section .08 and .12 of the Code of Maryland Regulations (COMAR) as enacted and amended.

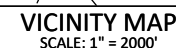
Sept 2, 2021  
Date

  
Harry L. Jenkins  
Property Line Surveyor  
Maryland No. 606  
License Expires: April 21, 2023





PREPARED FOR:  
EYA DEVELOPMENT |  
4800 HAMPDEN LN.  
SUITE 300  
BETHESDA, MD 20814  
301-634-8649  
J. WYNDHAM ROBERTSON  
wyndhamr@eya.com

[illegible]

16200  
FREDERIC  
ROAD

4TH ELECTION DISTRICT  
ROCKVILLE,  
MARYLAND  
TAX MAP: GS12

CONCEPT PLA  
EXHIBIT B

PROFESSIONAL SEAL

THE INFORMATION, DESIGN AND CONTENT OF DRAWINGS OR DOCUMENTS ARE PROPRIETARY MARYLAND, LLC AND CONSTITUTE ITS PROPR

© 2019 VIKI MARYLAND, LLC

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DRAWN BY: \_\_\_\_\_  
DESIGNED BY: \_\_\_\_\_  
DATE ISSUED: 9/1/2021

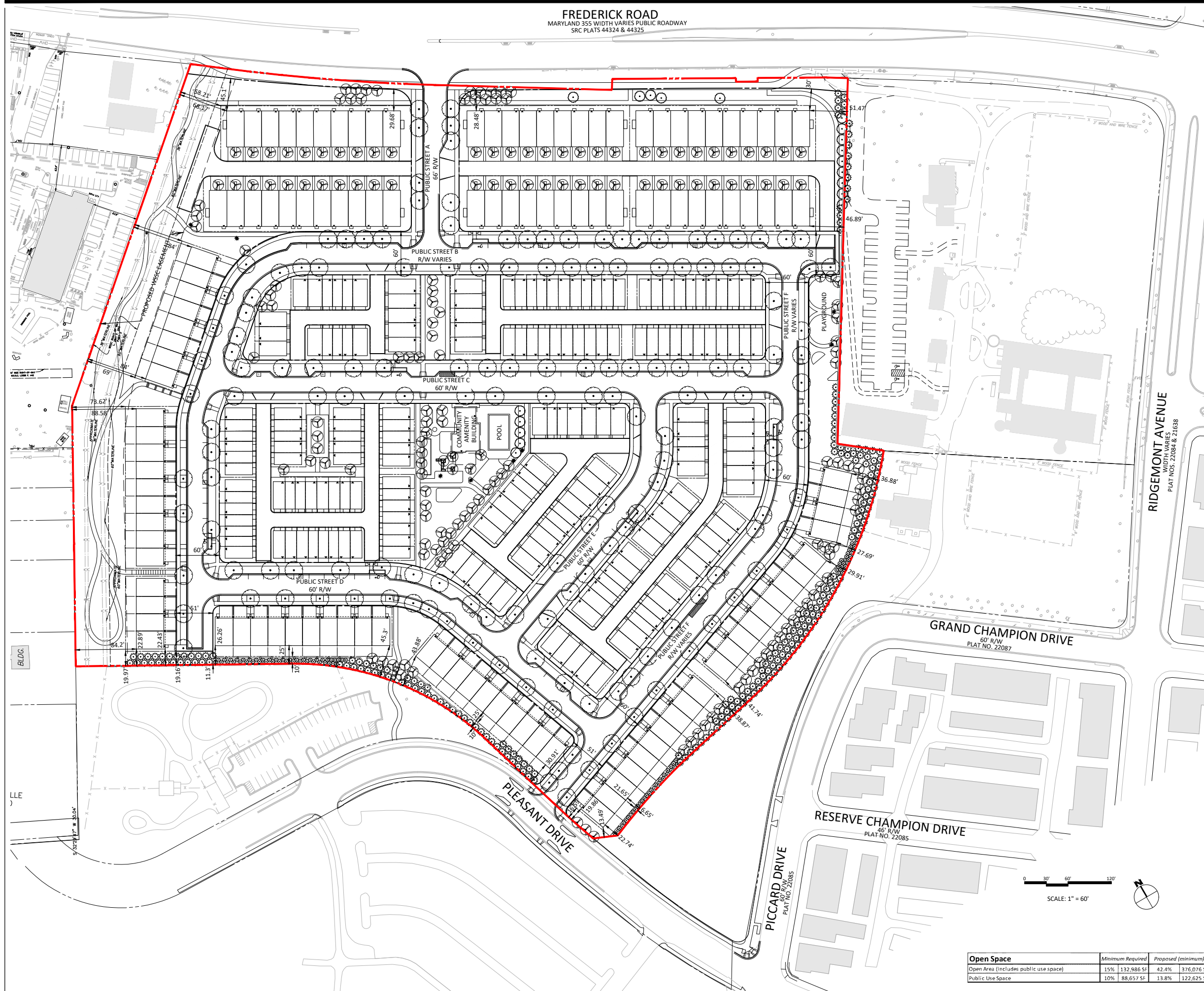
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VIKI PROJECT VM50420

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DRAWING NO.

Packet Pg. 114



## Exhibit C: Approved Preliminary FCP



August 26, 2021

EYA Development LLC  
4800 Hampden Lane  
Suite 300  
Bethesda, MD 20814

Re: King Buick Preliminary Forest Conservation Plan, [FTP2021-00021](#)

Dear EYA Development LLC:

The Preliminary Forest Conservation Plan (PFCP) received on May 3, 2021 for "Potomac Woods" under [FTP2021-00021](#) has been approved by the Planning and Development Services Department.

The PFCP approval is granted based on the following requirements:

- The Planning Commission approves Project Plan (PJT2021-00013).
- The applicant completes the required items listed under the "Forestry Permit" section in this letter.

Under Section 10.5-13( c )( 4) of the Forest and Tree Preservation Ordinance (FTPO), the approved PFCP "shall remain in effect, and shall serve as the basis for the Final Forest Conservation Plan(s) with respect to forest and tree retention for the duration of the validity period of the underlying approval, unless the City Forester determines that site conditions have changed to the point where the preliminary approval is no longer accurate."

#### FOREST AND TREE PRESERVATION ORDINANCE (FTPO) REQUIREMENTS

The proposed development to the City requires compliance with the City of Rockville's FTPO. The City Forester's office approved a Natural Resources Inventory/Forest Stand Delineation plan on February 22, 2021.

#### FOREST CONSERVATION

The forest conservation requirement for this project is based on the following:

- Tract area: 20.58 acres
- Site zoning: MXCD
- Existing forest: .00 acres
- Afforestation required: 3.09 acres

MINIMUM TREE COVER

The minimum tree cover requirement for this project, is 10%.

SIGNIFICANT TREES/SPECIMEN TREES

Significant trees are defined as trees located outside of a forest and being 12" DBH (diameter at breast height) and trees located within a forest and being 24" DBH and greater. Specimen trees are defined as trees with a diameter equal to or greater than 30" DBH or trees that are 75% of the diameter of the state champion tree of that species. Removal of specimen trees requires written justification approved by the City Forester in accordance with Section 10.5-2(c) of the FTPO. There are 25 significant trees on the site, of which, 2 are considered specimen trees.

**Significant Trees**

The project proposes to remove 15 significant trees from the site, 2 of which are specimen trees. The applicant is preserving 10 significant trees on the site. The replacement requirement is 29 trees to be planted on site. The applicant is removing 1 significant tree off the site and replacing it with 1 tree planting off the site.

STREET TREES

The project has frontage on Frederick Road, which is a State Highway Authority right of way (outside City limits). The project is creating public right of way within the development which is required to meet zoning ordinance 25.21.21 regarding planting of street trees. Street trees shall be shown on both the Final FCP and the street tree and lighting plan and will be in addition to new street tree planting proposed in rights-of-way. The project is proposing to remove 0 existing street trees.

The applicant is requesting a waiver to zoning ordinance 25.21.21 regarding the quantity and spacing of street trees. Staff has reviewed the waiver request and recommend it for approval by the Planning Commission at Site Plan.

LOT TREE REQUIREMENT

The applicant is requesting a waiver to Zoning Ordinance 25.21.21 for the 3 trees per lot requirement. Staff has reviewed the waiver request and recommend it for approval by the Planning Commission at Site Plan.

CONDITIONS OF APPROVAL FOR FINAL FOREST CONSERVATION PLANS

A Final Forest Conservation Plan must be reviewed and approved by the City with signature site plan submission and prior to release of any Building, Forestry and DPW permit associated with site plan submission. The Final FCP shall be generally consistent with the PFCP and approval letter and provide tree plantings consistent with outlined requirements.

Final FCP and site plan must comply with FTPO and Zoning Ordinance. In addition to compliance with applicable codes, the following specific directives must be followed:

1. Ensure tree plantings meet minimum spacing requirements, which include:
  - a. Shade trees spaced 20 feet apart, large, or small evergreens and ornamental trees spaced 15 feet apart. Shade trees 15 feet from ornamental trees. Spacing between evergreens and shade trees is 15 or 20 feet, as determined by the City since distance is dependent on growth habit of the species.
  - b. 10 feet from wet and dry utilities, except when these are under streets or as otherwise authorized by designated staff.

- c. 15 feet from streetlights and driveways (DPW provide requirements for sight distances and stop signs) or as authorized by designated staff.
  - d. 10 feet from inlets.
  - e. Shade trees and large evergreens shall be spaced a minimum of 7 feet, and ornamental trees and small evergreens to be spaced a minimum of 5 feet from micro bioretention underdrain pipes (6" diameter and smaller)
  - f. Street trees can be planted over stormwater conveyance pipes when pipes have a minimum of 4 feet of cover and are immediately behind the curb.
  - g. Trees planted to meet FTPO or other forestry requirements on the site may not be located within existing or proposed easements (excluding forest conservation easements).
2. The Applicant must submit a Final Forest Conservation Plan (FFCP) which meets the minimum requirements approved with the PFCP plan for the proposed site plan.
  3. Use current city tree tables and FTPO notes and details.
  4. Ensure the plan does not contain overwrites and is prepared per the general structure requirements for Final FCP's.
  5. Soil augmentation per the city's Forest and Tree Preservation Ordinance Notes will be required prior to installation of new trees within existing green space or where pavement was previously located.
  6. Graphically delineate the areas where soil removal and replacement are required prior to installation of all new trees.
  7. At the time of site plan submission, the Applicant must submit a landscape plan for that subject property consistent with all City ordinances.
  8. The applicant must address all comments provided on the most recent PFCP submission plans by the forestry reviewer.

#### FORESTRY PERMIT

The applicant is required to obtain a Forestry permit prior to forestry sign off on any sediment control permit and building permit associated with the site plan. The following items are required before issuance of the Forestry permit:

- Submission of the FTP permit application and fee.
- Approval of a Final Forest Conservation Plan which is consistent with the Pre FCP and addresses the items listed in this letter under "Conditions of Approval for Final Forest Conservation Plan."
- Applicant must execute a Five-year Warranty and Maintenance Agreement in a form suitable to the City.
- Applicant must post a bond or letter of credit approved by the City.
- Applicant must pay applicable amount of approved fee-in-lieu.

The Pre FCP approval does not infer or supersede other required project approvals and is contingent upon meeting all other city requirements including, but not limited to stormwater management, erosion and sediment control, water and sewer, traffic and transportation, and zoning and building codes.

Any significant modification to the approved Pre FCP must be consistent with Site Plan approval.

Page 4

Sincerely,

Shaun Ryan  
Principal Planner – Landscape Architect  
City of Rockville, Maryland

Cc:

Jim Wasilak, Zoning and Development Manager  
John Foreman, Development Services Manager  
EYA Development, LLC





## Exhibit D: Tree Request

August 27, 2021

**Barbara A. Sears**  
 bsears@linowes-law.com  
 301.961.5157

**Phillip A. Hummel**  
 phummel@linowes-law.com  
 301.961.5149

Mr. R. James Wasilak  
 Chief of Zoning  
 Department of Community Planning and  
 Development Services  
 City of Rockville  
 111 Maryland Avenue  
 Rockville, Maryland 20850

**Re: PJT2021-00013 and STP2021-00433 – Waiver of Subdivision Regulations: Residential Lot Tree Planting**

Dear Mr. Wasilak:

EYA Development (“Applicant”) is submitting this letter to request waivers of certain requirements of Article 21 of Chapter 25 of the City of Rockville Code (the “Zoning Ordinance”) pursuant to Section 25.21.07 of the Zoning Ordinance. Specifically, Applicant seeks to modify the requirements to: 1) plant at least one (1) street tree per 40 feet of lot frontage within the public right-of-way under Section 25.21.21.a of the Zoning Ordinance (“Lot Frontage Trees”); and 2) plant a minimum of one tree in the front yard and two trees in the rear yard of every residential lot under Section 25.21.21.b of the Zoning Ordinance (“Residential Lot Trees”).

Applicant proposes to: 1) reduce the number of Lot Frontage Trees required amount along the Property’s lot frontage (178, based on 7,114 feet of lot frontage) by up to 12%; and 2) plant 2.6 Residential Lot Trees per residential lot based on an aggregate of the on-site trees planted anywhere on the Property (collectively, the “Waiver”). This request is associated with PJT2021-00013 (the “Project Plan”) and STP2021-00433 (the “Site Plan”), both of which propose to redevelop 16160/16200 Frederick Road and Parcel P170 (collectively, the “Property”) with 370 total dwelling units (252 townhouses and 118 two-over-two multi-family units), with 15% of dwelling units provided as Moderately Priced Dwelling Units (“MPDUs”), as well as public use spaces, open areas, and other amenities (collectively, the “Project”). Granting Applicant’s request is appropriate as undue hardship will result from strict



Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 2

compliance, and the Waiver allows substantial justice to be done, protects the public health, safety, aesthetics, and general welfare, and supports the intent and purpose of the City's Comprehensive Master Plan and the Zoning Ordinance. Thus, Applicant requests the Mayor and Council express its support for the waiver in its resolution approving the Project Plan, as well as requests the Planning Commission grant the waiver in approving the subsequent Site Plan.

## **Background**

### The Project Plan

On May 3, 2021, Applicant filed the Project Plan, which initially proposed redeveloping the Property with a maximum of 371 dwelling units (up to 1.5 FAR residential) comprising 253 townhouses of varying widths and 118 two-over-two multi-family units.

Applicant held a pre-application meeting on November 24, 2020 and a post-application area meeting on June 3, 2021. A DRC meeting with City staff was held on June 17, 2021. A number of changes were made to the Project Plan in response to City staff comments, including, among other things, reducing the number of proposed units, reconfiguring certain open spaces, streets, and alleys to centralize the main community open space, increasing the amount of right-of-way dedication, increasing/improving buffers to the King Farm Farmstead and Dog Park, widening of the Project's entrance on Frederick Road, and improving pedestrian connectivity. Applicant also coordinately closely with City staff to support the adaptive reuse of the adjacent King Farm Farmstead. The parties have agreed Applicant will construct a 47 space parking lot access from Frederick Road in an agreed-upon location, which will take place at the same time the Project is constructed on the Property. Applicant will be responsible for preparing plans and application materials, while City staff will lead the entitlement process. If the City does not obtain the necessary approvals within six months of Applicant commencing construction of the Project, Applicant will provide a fee-in-lieu.

The Applicant briefed the Planning Commission on the Project Plan on June 23, 2021, and briefed the Mayor and Council on July 19, 2021. The Mayor and Council expressed its support for the agreement regarding the construction of the new parking lot on the King Farm Farmstead. It is anticipated that the Planning

Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 3

Commission will consider and make a recommendation on the Project Plan on September 22, 2021. A public hearing before the Mayor and Council on the Project Plan is expected on October 4, 2021. Mayor and Council direction and instruction is envisioned on October 18, 2021, with final decision on November 8, 2021.

#### The Site Plan

Applicant filed the Site Plan on August 13, 2021 to implement the approved Project Plan by constructing the Project on the Property.

#### The Zoning Ordinance's Tree Planting Provisions

Under strict application of Section 25.21.21.a of the Zoning Ordinance, an applicant is required to plant at least one Lot Frontage Tree per 40 feet of lot frontage within the public right-of-way.

Strict compliance with Section 25.21.21.b of the Zoning Ordinance requires an applicant to plant three Residential Lot Trees per residential lot, with one tree to be located in the front of the lot and two trees in the rear of the lot. The three Residential Lot Trees per lot standard, specifically the requirement for two trees in the rear of the lot, anticipates single-family detached building types. This standard was conceived for older suburban-style development, is inconsistent with modern infill projects, and would render compact and higher-density development patterns recommended in the City's recent update to its Comprehensive Plan (Rockville 2040, the "Plan") for prominent corridors near transportation facilities (including Frederick Road close to the Shady Grove Metrorail station) impractical. The urban multi-family and townhouse design proposed in the Project Plan and Site Plan does not anticipate or accommodate this suburban form of planting.

#### **Requested Waiver**

##### Lot Frontage Trees

Applicant's Waiver regarding Lot Frontage Trees is summarized in the following chart:

Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 4

<b>Lot Frontage Trees</b>		
	<b>Required</b>	<b>Proposed</b>
	178 trees (based on 7,114 linear feet of lot frontage)	At least 157 trees
<b>Requested Waiver:</b> Up to 12% Reduction		

#### Residential Lot Trees

Applicant's Waiver with respect to Residential Lot Trees as calculated in accordance with current City practice is as follows:

<b>Residential Lot Trees</b>		
	<b>Required</b>	<b>Proposed</b>
	774 trees, with one tree planted in the front yard and two trees planted in the rear yard of every residential lot (based on 258 residential lots)	684 trees to be located anywhere on the Properties but off each residential lot; with 111 of the 684 trees not counting toward the satisfaction of afforestation or significant tree replacement
<b>Requested Waiver:</b> Provision of 2.6 trees per residential lot, which may be located anywhere on the Property		

For context, the Project proposes to plant 684 new trees in the aggregate on-site throughout the Property, which is summarized in the following chart:

Afforestation	543 trees
Significant Tree Replacement	30 trees
Street Trees	52 trees
Alley Trees (planted within dry utility easement areas)	59 trees
Residential Lot Trees (planted on lot)	0 trees
<b>Total Number of Trees:</b>	<b>684 trees</b>

As shown in this chart, 111 of the 684 trees (namely, the street trees and alley trees) are not meeting afforestation and significant replacement tree requirements.



Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 5

Additionally, and as explained below, no Residential Lot Trees are proposed to be planted on lot. Instead, the Waiver proposes 2.6 trees per residential lot (684 total trees to be planted ÷ 258 residential lots) that may be located anywhere on the Property.

The realization of the Project Plan and Site Plan with the Waiver will result in an increase of approximately 658 new trees when compared to the Property's existing conditions, a significant increase in tree canopy, as well as reduction in impervious surface area presently without any water quality treatment and numerous other public benefits.

### **Justification for Waiver**

Granting Applicant's proposed reduction of Lot Frontage Trees by up to 12% and proposed reduction in Residential Lot Trees from 3 to 2.6, which may be located anywhere on the Property, is appropriate under Section 25.21.07 of the Zoning Ordinance. With regard to findings, this Section states:

If the Planning Commission finds that undue hardship will result from strict compliance with any requirement of this chapter, it may grant a waiver or modification from such requirement so that substantial justice may be done if the public health, safety, aesthetics, or general welfare will not be impaired and the waiver will not be contrary to the intent and purpose of the plan or this chapter.

### Strict Compliance with the Zoning Ordinance Will Result in Undue Hardship and the Waiver is Necessary so that Substantial Justice May Be Done

Applicant will suffer undue hardship arising from strict compliance with Section 25.21.21.a and b of the Zoning Ordinance. The Project Plan and Site Plan propose compact, walkable, and transit-oriented development with entirely residential uses (including 15% MPDUs) in order to take full advantage of the Project's proximity to existing transportation infrastructure, public facilities, retail services, employment opportunities, and commercial uses. The Project also includes a new grid of public streets lined with sidewalks, street trees, and lighting fixtures (totaling in excess of 5.6 acres of private land to be dedicated to the City),

Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 6

approximately 2.82 acres of new public use space (well in excess of Zoning Ordinance requirements), numerous state-of-the-art environmental site design measures (with associated easements), a new 10 foot shared use path along the Property's Frederick Road frontage, a new pedestrian connection to Mattie JT Stepanek Park, and a new vehicular connection to Pleasant Drive. The Project also supports the adaptive reuse of the adjacent King Farm Farmstead through the design and construction of a new 47 space parking lot.

Achieving this desired form of urban redevelopment with the significant public benefits associated with the Project necessitates the requested flexibility in the Lot Frontage Tree requirements of Section 25.21.21.a of the Zoning Ordinance. Strict compliance with this provision will result in hardship due to the number of roadside planter box style micro-bioretenition stormwater facilities for achieving environmental site design to the maximum extent practicable as determined by the City, accommodation of WSSC easements, installation of utilities (and associated easements), sight line restrictions, and application of the City requirement that trees must be located at least 15 feet from light poles. Applicant's request to waive this requirement by a modest reduction of up to 12% reduction reflects Applicant's considerable efforts to maximize compliance while appropriately balancing other valuable City interests. Otherwise, Applicant will suffer a hardship through the preclusion of an economically viable project and the inability of receiving a reasonable financial return on its considerable investment for providing extensive public benefits.

Similarly, strict compliance with the Residential Lot Tree requirements of Section 25.21.21.b of the Zoning Ordinance will also result in undue hardship. Providing greater intensification of infill transit-oriented residential development (including 15% MPDUs) along the Frederick Road commercial corridor near Metrorail, employment opportunities, retail services, and public facilities leaves insufficient space for planting a minimum of one tree in the front yard and two trees in the rear yard of each townhouse and two-over-two multi-family lot. As noted above, the Residential Lot Tree requirement from Section 25.21.21.b of the Zoning Ordinance reflects a suburban-style development pattern that is incompatible with urban-oriented, infill, and compact redevelopment. The Project is not seeking to avoid the planting of trees. Instead, the Project includes the planting of 684 new trees in the aggregate (through a range of street trees, shade trees, evergreen trees, ornamental trees, and alley trees) appropriately distributed throughout the Property



Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 7

off individual residential lots. These trees will be planted within new afforestation areas, as well as along new streets, in new public open spaces and open areas, and within buffers from adjacent existing development. Applicant's Waiver will appropriately achieve 2.6 Residential Lot Trees per residential lot, planted in the aggregate throughout the Property.

Undue hardship is also created by other site constraints that impact the ability to plant Residential Lot Trees on lot. For example, 1.33 acres of the Property is currently encumbered by an existing WSSC easement that accommodates a regional transmission main that serves surrounding communities and is an important piece of public infrastructure. This easement area cannot be planted to meet afforestation requirements, which results in the need to plant 22 shade trees or 44 ornamental/small evergreen trees elsewhere on the Property. Furthermore, and in response to comments from City staff, Applicant has widened the rights-of-way for the Project's new street network. This also reduces the availability for planting one tree in the front yard and two trees in the rear yard of each residential lot. If the Waiver is denied, Applicant would unfairly be denied the ability to implement the Project.

The Public Health, Safety, Aesthetics, or General Welfare Will Not Be Impaired by Granting the Waiver

Furthermore, the Planning Commission's approval of the Waiver will support the public health, safety, aesthetics, and general welfare. Approving the Waiver will allow the implementation of the Project with walkable, transit-oriented, and infill development that is conveniently located near existing and future infrastructure, incorporates open areas and public use spaces in excess of zoning requirements, and achieves desirable linkages with surrounding communities. This, in turn, will enable the provision of much needed housing in the City, including a significant number of moderately priced dwelling units ("MPDUs"), convenient to transportation facilities, job opportunities, retail uses (including the nearby King Farm Village Center), commercial services, and public recreational facilities (such as Mattie JT Stepanek Park). Residents of the Project's new dwelling will be able to access and enjoy new open areas enhanced with trees, landscaping, and other desirable amenities. This includes the WSSC easement area along the Property's northern boundary with a proposed natural trail in a meadow setting with plantings and flowers, generously

Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 8

landscaped pocket parks with children's play equipment, and a centralized community open space with areas for gathering and recreation.

The Waiver will also support the incorporation of other enhancements to public health, safety, aesthetics, and general welfare included in the Project Plan and Site Plan, including a new grid network of internal public streets with comfortable sidewalks and attractive street trees, the construction of a new 10-foot-wide shared use path along the Property's Frederick Road frontage for pedestrians and cyclists, a new connection between the Property and the Mattie JT Stepanek Park, a new vehicular connection to Pleasant Drive, improved state-of-the-art stormwater management, and enhanced landscaped buffers between the Project and adjacent existing development. The Project, as proposed, also allows Applicant to support the long-anticipated adaptive reuse of the King Farm Farmstead by constructing an improved access point and new 47 space parking lot. Applicant observes that the existing property currently contains approximately 25 trees 12" DBH or larger. The Project is proposed to provide 684 new trees planted to City standards. As noted above, implementation of the Project with Applicant's requested Waiver will result in an increase of approximately 658 trees when compared to the Property's existing conditions, a significant increase in tree canopy, and a reduction in untreated impervious surfaces when compared to the Project's existing conditions.

Granting the Waiver Will Not Be Contrary to the Intent and Purpose of the City's Comprehensive Plan or the City's Zoning Ordinance

Lastly, the Waiver request advances the intent and purpose of the City's recent update to its Plan and the Zoning Ordinance. Implementing the Project on the Property, with the approval of the Waivers, is wholly consistent with the Plan. With respect to land use and urban design, this includes providing higher density residential land uses near Metrorail along a major arterial corridor, advancing walkable and bikeable development, improving connections to surrounding development, and offering flexibility to achieve creative site planning. Plan, pgs. 29, 35-39, 49. Regarding transportation, the Project supports "complete streets" and Vision Zero goals, enhances pedestrian facilities, achieves an important bicycle connection along the Property's Frederick Road frontage, and takes advantage of the future BRT route along Frederick Road. Plan, pgs. 58-65, 70-71. With respect to the environment, the Project facilitates reduced greenhouse gas emissions by placing new housing close to public transportation, employment, services, and facilities, thereby



Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 9

reducing reliance on the automobile and vehicle miles traveled. Plan, pg. 128-29. On housing, the Project fosters sufficient market-rate housing to provide more affordable housing, create new “missing middle” housing, and allowing new housing in more urban contexts. Plan, pgs. 197-98, 203-04. The Plan also specifically supports the redevelopment of the Property and notes that new residential development would support the King Farm Village Center. Plan, pg. 396.

Approving the Waiver is also consistent with many of the purposes of the Zoning Ordinance, including providing appropriately scaled buildings that are compatible with their surroundings, facilitating diversity in housing, building design, and land use, ensuring orderly development consistent with the Plan, allowing for the most appropriate use of land throughout the City, fostering flexible building and site design, and offering attractive, high quality development and design that enhances the community’s quality of life. See § 21.01.02 of the Zoning Ordinance.

## Conclusion

Granting the Waiver will prevent undue hardship resulting from strict compliance with the requirements to plant at least one street tree per 40 feet of lot frontage within the public right-of-way and at least three trees per residential lot, allow for substantial justice to be done without impairment to public health, safety, aesthetics, or general welfare, and not be contrary to either the intent of the City’s Plan or the Zoning Ordinance. Accordingly, the Applicant respectfully requests that the Mayor and Council recommend approval of the Waiver as part of Project Plan approval, and that the Planning Commission grant the Waiver as part of Site Plan approval.

Very truly yours,

MILES & STOCKBRIDGE P.C.

*Barbara A. Sears / kdm*

Barbara A. Sears

*Phillip A. Hummel / kdm*

Phillip A. Hummel



Mr. R. James Wasilak  
City of Rockville  
August 27, 2021  
Page 10

cc: Bob Youngentob, EYA  
Wyndham Robertson, EYA  
Jason Sereno, EYA



111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000  
[www.rockvillemd.gov](http://www.rockvillemd.gov)

## Exhibit E: Stormwater Letter

June 17, 2021

Mr. Wyndham Robertson  
EYA Development, L.L.C.  
4800 Hampden Lane, Suite 300  
Bethesda, Maryland 20817

SUBJECT: 16200 Frederick Road – King Buick – Pre-Application Stormwater Management Concept Approval; PAM2021-00129, PJT2021-00013, SMC2021-00002

Dear Mr. Robertson:

The Pre-Application Stormwater Management (SWM) Concept (Concept) received on May 3, 2021 for the above referenced site is conditionally approved. City of Rockville (City) staff has determined that the Pre-Application SWM Concept, as described below, achieves on-site Environmental Site Design (ESD) to the Maximum Extent Practicable (MEP). This Pre-Application SWM Concept approval establishes ESD to the MEP as a  $P_E$  of 1.01-inch for this project which is 52 percent of the required ESD volume ( $ESD_v$ ).

This site is 20.58 acres and is identified as Parcels A and C, King's Addition to Shady Grove, subject to annexation by the City's Mayor and Council (ANX2020-00146), and Parcel P170 situated at 16200 Frederick Road. The proposed development includes the construction of residential townhouses and stacked condominium townhouses, a community center, and six public roads with associated infrastructure. The property is located in the Rock Creek Watershed and is proposed to be zoned MXCD (Mixed-Use Corridor District). The on-site soils are predominately Gaila and Glenelg Silt Loams and Urban Land which are classified as hydrologic soil groups (HSG) B and D, respectively.

According to City Code (Code), Chapter 19, Section 19-2 Definitions the Site qualifies as Redevelopment because it proposes construction on a property where existing imperviousness is greater than 40 percent of the site. The property is currently 48 percent impervious.

In accordance with Chapter 19, Section 19-45 of the Code, SWM is required for all new and replacement impervious area within the entire site area including all impervious area previously existing on the site that does not have SWM to current standards. According to the submitted Concept, the on-site impervious area subject to SWM is 13.70 acres.

Per Chapter 19, Section 19-46 (b), SWM also must be provided for imperviousness in a portion of the adjacent Frederick Road and Pleasant Drive Right-of-way (ROW). According to the submitted Concept, the total impervious area in the adjacent ROW subject to SWM is 0.89 acre.

Mr. Wyndham Robertson  
June 17, 2021  
Page 2

Your proposed Pre-Application SWM Concept, as shown on the attachment, is summarized as follows:

### **ON-SITE SUMMARY**

Proposed new or replacement impervious areas are summarized as:

- Residential – Townhouses and Stacked Condominium Townhouses.
- Community Center with Pool.
- Public/Private Infrastructure – Roads, Alleys, and Sidewalks.

Total on-site impervious area subject to SWM = 13.70 acres.

### **Environmental Site Design Measures**

- The Concept proposes to provide a minimum  $P_E = 1.01$ -inch equivalent to 52 percent of the required  $ESD_v$  in the following on-site measures:
  - 18,904 square feet (sf.) Permeable Pavement.
  - Two At-Grade Micro-Bioretenention Facilities.
  - 32 Micro-Bioretenention Planter Box Facilities.
  - 115 Roadside Micro-Bioretenention Planter Box Facilities.
- Summary of ESD:
  - Total  $ESD_v$  provided = 49,022 cubic feet (cf.).
  - Total  $ESD_v$  required = 93,263 cf.
  - Percentage of  $ESD_v$  provided = 49,022 cf. / 93,263 cf. = 52 percent.

### **Structural Measures and/or Alternative Measures – Structural Measures and Monetary Contribution**

This Pre-Application SWM Concept Approval does not approve the methods for providing SWM beyond establishing the percent  $ESD_v$ . Additionally, the Pre-Application SWM Concept does not grant approval of a Monetary Contribution Alternative Measure and the City may require additional SWM facilities to provide the entire  $ESD_v$  on-site. Further consideration and a determination of acceptable SWM Alternatives shall be made with the Development SWM Concept. The Pre-Application SWM Concept proposes:

- Structural Measures – On-site underground stormwater structures, which provide partial  $C_{pv}$  in-lieu of full ESD.
- Alternative Measures – Monetary Contribution in-lieu of providing full ESD (partial  $C_{pv}$ ) and in-lieu of providing  $Q_{p10}$  for the 13.70 acres of on-site impervious area.

### **ROW SUMMARY**

#### **Structural Measures and/or Alternative Measures – Monetary Contribution**

The Pre-Application SWM Concept proposes:

- Alternative Measures – Monetary Contribution in-lieu of providing  $WQ_v$ ,  $C_{pv}$ , and  $Q_{p10}$  for the 0.89 acre of impervious area in the adjacent ROW of Frederick Road and Pleasant Drive.

### **CONDITIONS OF APPROVAL**

Staff has determined that ESD to the MEP has been met. This Pre-Application SWM Concept is conditionally approved subject to the following conditions, which must be addressed at the stages in the process as indicated below:

1. Provide the remaining  $C_{pv}$  to the MEP in additional on-site ESD or structural measures located on private property. If a stormwater measure is proposed to provide treatment for the proposed public ROW, the facility may be in the public ROW and the City will own and maintain the facility.

Mr. Wyndham Robertson  
June 17, 2021  
Page 3

2. Storage provided exceeding the amount required to treat the one year, 24-hour design storm shall not be credited towards the total water quality (ESD or structural) volume provided.
3. Prepare a safe conveyance analysis of the downstream storm drain systems. This letter establishes the study point as the outfall of the Frederick Road storm drain system as shown on the attached exhibit entitled "*King Buick – Safe Conveyance Analysis Limits*" and as to be determined by Maryland State Highway Administration (MSHA) and/or Montgomery County Department of Transportation (MCDOT). The safe conveyance study and conceptual design for drainage connections to existing storm drains must be approved by the appropriate agency for review with copies provided to Rockville DPW prior to approval of the Development SWM Concept. However, this analysis may be reviewed concurrently with the Development SWM Concept.
4. Required approvals and permits for drainage connections to existing storm drains in MSHA and/or MCDOT properties, easements and ROWs must be obtained prior to the issuance of a Stormwater Management Permit (SMP).

The next step in the City's two-stage SWM Concept approval is submission of a Development SWM Concept for review and approval by the Department of Public Works (DPW) prior to Planning Commission approval of the Site Plan. In accordance with the Code, Chapter 19, Section 19-44, SWM must be provided by one of the following methods, which are listed in order of priority respectively: on-site ESD measures, on-site structural measures, and alternative measures which may include a monetary contribution.

The submitted material must:

1. Evaluate the feasibility of alternative and additional ESD measures not contemplated in the Project Plan's Pre-Application SWM Concept. The City may require additional ESD measures at the Development SWM Concept stage, based on their feasibility. Alternate measures to consider include, but shall not be limited to, additional onsite or roadside micro-bioretenention facilities and enhanced facilities.
2. Include all plans, on 24-inches x 36-inches sheets, computations, and supporting documents as outlined in the City SWM Concept Checklist.
3. Demonstrate, with sufficient details and computations, how ESD to the MEP, established by this approval, will be achieved on-site.
4. Demonstrate, with sufficient details and computations, compliance with the full SWM requirements will be in accordance with Sections 19-43 and 19-44 of the Code. SWM Alternatives, including monetary contribution as a method to meet SWM requirements will be reviewed at the Development SWM Concept stage. Fee-in-lieu calculations associated with on-site areas should be presented separately from adjacent ROW areas.
5. Demonstrate, with sufficient details and computations, that the on-site underground stormwater structures provide on-site C<sub>pv</sub> in-lieu of full ESD.
6. Include horizontal and vertical information to support the design, including underdrain pipes and overflow structures, and conveyance to the proposed ESD and structural SWM facilities.
7. Include conceptual level vertical information that demonstrates how the volume required to be treated by ESD and structural measure will be flow split, with the 10-year storm event by-passing the treatment facilities and being safely collected and conveyed to the downstream storm drain system. Provide conceptual calculation of the 10-year water surface elevation at each facility where applicable.
8. Provide information that demonstrates that individually sized sub-drainage areas are safely conveyed to the individual ESD measures.
9. Submit a revised SWM/Forestry Overlay Plan demonstrating compliance with the Concept approval and the Pre-FCP approval.
10. Show and label preliminary SWM easements for all proposed SWM facilities. Easements should be sized to allow future inspection and maintenance.



Mr. Wyndham Robertson  
June 17, 2021  
Page 4

11. Conceptual design must be submitted to WSSC for review of any WSSC utilities crossing proposed SWM facilities prior to approval of the Development Stormwater Management Concept.

This Pre-Application SWM Concept does not supersede or negate other required project approvals. The Concept approval does not approve the layout or density of the site. The Concept approval is contingent upon compliance of all other City and other governmental agency requirements including, but not limited to, Forestry, Traffic and Transportation, and Planning.

Any significant changes to the proposed development may result in the requirement to submit a revised Pre-Application SWM Concept with review fee for approval by DPW.

If you have questions, please contact Principal Civil Engineer Sean Murphy via email at [smurphy@rockvillemd.gov](mailto:smurphy@rockvillemd.gov) or via telephone at 240-314-8535.

Sincerely,

*John Scabis*

John Scabis, P.E.  
Chief of Engineering

JKS/SKM/kmc

- Attachments: 1. King Buick – Pre-Application SWM Concept Plan, dated May 3, 2021  
2. King Buick – Safe Conveyance Analysis Limits.

cc: Jim Lapping, Engineering Supervisor  
John Foreman, Development Services Manager  
Sachin Kalbag, Principal Planner  
Shaun Ryan, Principal Planner  
Conrad Aschenback, Victor, Inc.  
Barbara Sears, Miles & Stockbridge  
Kwesi Woodroffe, MDOT SHA District 3 Regional Engineer  
Logan Kelso, VIKI Maryland, L.L.C.  
SWM Concept file  
Permit plan, PAM2021-00129, PJT2021-00013, SMC2021-00002  
Day file

Attachment 13.b: Agreement Exhibits Combined (3591 : Possible Adoption of an Annexation Agreement (King Buick))



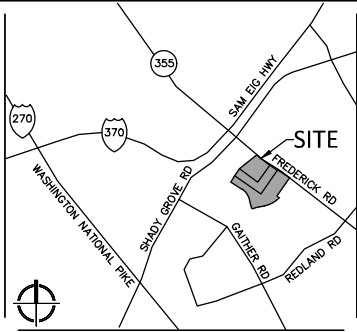
PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT

SMC#: SMC2021-00002

KING BUICK

4TH ELECTION DISTRICT ROCKVILLE

MONTGOMERY COUNTY, MARYLAND



VICINITY MAP  
SCALE: 1" = 2000'

**VIKA**

**VIKA MARYLAND, LLC**  
20251 Century Blvd., Suite 400  
Germantown, MD 20874  
301.916.4100 | [vika.com](http://vika.com)  
*Our Site Set on the Future.*

PREPARED FOR:  
**EYA DEVELOPMENT LLC**  
4800 HAMPDEN LN.  
SUITE 300  
BETHESDA, MD 20814  
301-634-8649  
J. WYNDHAM ROBERTSON  
[wyndhamr@eya.com](mailto:wyndhamr@eya.com)

ATTORNEY:  
**MILES & STOCKBRIDGE**  
11 N WASHINGTON ST.  
SUITE 700  
ROCKVILLE, MD 20850  
301-762-1600  
BARBARA SEARS

PLANNER, LANDSCAPE ARCHITECT  
& CIVIL ENGINEER:  
**VIKA MARYLAND, LLC**  
20251 CENTURY BLVD.  
SUITE 400  
GERMANTOWN, MD 20874  
301-916-4100  
Robert Tilson, FALSA, PLA  
Michael Goodman, P.E.  
Logan Kelso, P.E.

REVISIONS	DATE

**KING BUICK**  
4TH ELECTION DISTRICT  
MONTGOMERY COUNTY,  
MARYLAND  
WSSC GRID: 222NW08  
WSSC GRID: 221NW08  
TAX MAP: GS12

PRE-APPLICATION  
STORMWATER  
MANAGEMENT  
CONCEPT  
COVER SHEET

PJT2021-00XXX



I HEREBY CERTIFY THAT THESE DOCUMENTS WERE  
PREPARED OR APPROVED BY ME, AND THAT I AM  
A QUALIFIED PROFESSIONAL ENGINEER  
UNDER THE LAWS OF THE STATE OF MARYLAND.  
ENGINEER'S NAME: LOGAN B. KELSO, P.E.  
LICENSE NO.: 51971  
EXPIRATION DATE: DECEMBER 30, 2023

THE INFORMATION, DESIGN AND CONTENT OF THESE  
DRAWINGS OR DOCUMENTS ARE PROPRIETARY TO VIKA  
MARYLAND, LLC AND CONSTITUTE ITS PROPRIETARY  
INTELLECTUAL PROPERTY. THESE DRAWINGS AND/OR  
DOCUMENTS MUST NOT BE FORWARDED, SHARED,  
COPIED, DIGITALLY CONVERTED, MODIFIED OR USED  
FOR ANY PURPOSE, IN ANY FORMAT, WITHOUT PRIOR  
WRITTEN AUTHORIZATION FROM VIKA MARYLAND, LLC.  
VIOLATIONS MAY RESULT IN PROSECUTION. ONLY  
APPROVED, SIGNED AND SEALED PLANS OR DRAWINGS  
MAY BE UTILIZED FOR CONSTRUCTION PURPOSES.

© 2019 VIKA MARYLAND, LLC  
DRAWN BY:   TG    
DESIGNED BY:   LBK    
DATE ISSUED:   APR. 2021    
VIKA PROJECT   VM50420    
DRAWING NO.   SWC-1  

SHEET INDEX

SWC	1 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT COVER SHEET
SWC	2 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT DRAINAGE AREA MAP
SWC	3 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT OVERALL
SWC	4 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT 30' SCALE PLAN
SWC	5 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT 30' SCALE PLAN
SWC	6 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT 30' SCALE PLAN
SWC	7 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT CONCEPT 30' SCALE PLAN
SWC	8 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT DETAILS
SWC	9 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT DETAILS
SWC	10 OF 10	PRE-APPLICATION STORMWATER MANAGEMENT DETAILS

STORMWATER MANAGEMENT CONCEPT GENERAL NOTES

- ALL STORM DRAIN PIPES PROPOSED ARE EITHER REINFORCED CONCRETE PIPE (RCP), HIGH PERFORMANCE POLYPROPYLENE (HP) OR POLYVINYL CHLORIDE (PVC).
- STORM DRAIN PIPE SIZES SHOWN ARE ESTIMATED AND ARE SUBJECT TO CHANGE DURING FINAL ENGINEERING DESIGN.
- QUANTITY AND LOCATION OF ENVIRONMENTAL SITE DESIGN (ESD) MEASURES ARE SUBJECT TO CHANGE DURING FINAL ENGINEERING DESIGN.
- ALL WATER AND SEWER LINES SHOWN ARE APPROXIMATE AND ARE SUBJECT TO CHANGE UPON FINAL ENGINEERING DESIGN.
- ALL WATER AND SEWER MAINS SHALL BE PUBLIC. (WSSC)
- ALL STREETS ARE PROPOSED TO BE PUBLIC AND WILL BE MAINTAINED BY THE CITY.
- ALL UTILITY LAYOUTS SHOWN ON THIS CONCEPT PLAN ARE SUBJECT TO ADJUSTMENT IN LOCATION, SIZE AND CONFIGURATION DURING FINAL ENGINEERING TO ACCOMMODATE LOCATIONS OF TREES, DRY UTILITIES, STREET LIGHTS AND OTHER CONFLICTING FEATURES. LAYOUTS SHOWN HEREON ARE CONCEPTUAL AND NOT INTENDED TO REFLECT FINAL LOCATION OF THESE UTILITIES.

Development SWM Summary Table
Type of Concept: Annexation Stormwater Management Concept
COR: SMC2021-00002, PJT2021-XXX
Property Address: 16200 Frederick Road, Rockville, MD 20855
Property Legal Description: Parcel 1 - Victor, Inc; Parcel 2 - Frederick Road Limited Partnership
Property Size(ac./sq.ft.): 20.58 acres/ 896,476 square feet
Total Concept Area (ac./sq.ft.): 20.41 acres/ 889,107 square feet
Zoning: Mixed Use Corridor district (MXCD)
Watershed and Stream Class: Rock Creek - I/I-P
Special Protection Area: No
100 YR Floodplain: n/a
Target Pe / Proposed Pe: 1.93 inches/ 1.01 inches
Target ESDv/ Provided ESDv: 93,263 cu.ft./ 49,022 cu.ft.
ESD Measures: Micro Bioretention & Permeable Pavement
Structural Storage Required/ Provided: 44,241 cu.ft./ 19,886 cu.ft.
Structural Measures: Underground Stormwater Structures
Requested to be Waived: 24,355 cu.ft. (on-site partial WQv and Cpv)
Provided ESDv + Structural Storage Provided + Requested to be Waived = 93,263 cu.ft.
Other Information:

 "FOR LOCATION OF UTILITIES CALL  
8-1-1 or 1-800-257-7777 OR LOG ON TO  
[www.call811.com](http://www.call811.com) or <http://www.missutility.net>  
48 HOURS IN ADVANCE OF ANY  
WORK IN THIS VICINITY"

The excavator must notify all public utility companies with underground  
facilities in the area of proposed excavation and have those facilities  
located by the utility companies prior to commencing excavation. The  
excavator is responsible for compliance with requirements of Chapter  
36A of the Montgomery County Code.



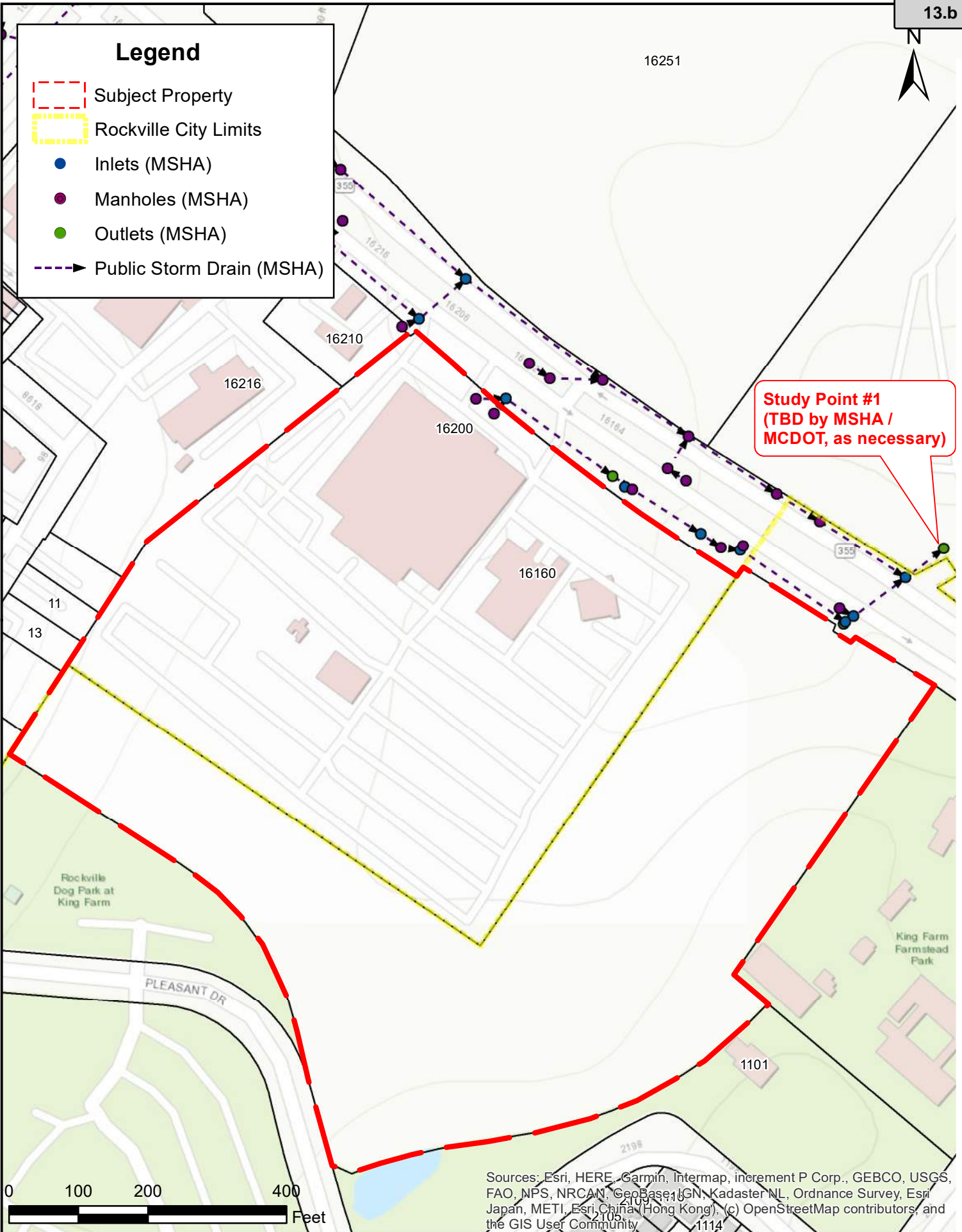




# Legend

- Subject Property
- Rockville City Limits
- Inlets (MSHA)
- Manholes (MSHA)
- Outlets (MSHA)
- Public Storm Drain (MSHA)

Study Point #1  
(TBD by MSHA /  
MCDOT, as necessary)



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

## Exhibit F: Stormwater Letter



111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000  
[www.rockvillemd.gov](http://www.rockvillemd.gov)

August 31, 2021

Mr. Wyndham Robertson  
EYA Development, L.L.C.  
4800 Hampden Lane, Suite 300  
Bethesda, Maryland 20817

SUBJECT: King Buick Annexation Stormwater Management Concept; 16200 Frederick Road –  
PJT2021-00013, ANX2020-00146, SMC2021-00002

Dear Mr. Robertson,

The Annexation Stormwater Management (SWM) Concept letter issued on August 4, 2021, for the above referenced site (site) is being revised based on design changes and constraints to the Concept. The SWM Concept received on August 17, 2021, for the site is acceptable and meets the requirements of a Development SWM Concept. This letter supersedes the previous Annexation SWM Concept approval letter listed above.

This letter also documents the minimum SWM requirements for the subject property and is intended to serve as an attachment to the Annexation Agreement associated with Annexation ANX2020-00146. This SWM approval does not supersede or negate other required project approvals. The applicant shall comply with the conditions of the Pre-Application SWM Concept approval letter, dated June 17, 2021. Although the submitted Annexation SWM Concept meets the requirements of a Development SWM Concept submission, final review and approval of the Development SWM Concept remains pending and will be issued concurrent with Site Plan approval. The Development Concept approval will be contingent upon compliance with all City of Rockville (City) and other governmental agency requirements including, but not limited to, those imposed by City Forestry, Traffic and Transportation, and Planning and Development Services. It is understood that changes to the SWM Concept Plan may be necessary if duly authorized bodies such as the Rockville Mayor and Council, Rockville Planning Commission, Washington Suburban Sanitary Commission, or Maryland State Highway Administration require changes to the development of the site that impact the SWM facilities. However, the development of the site must be in conformance with the Pre-Application SWM Concept and the intent of this Annexation SWM Concept plan by providing a minimum 95 percent of the Target Environmental Site Design volume (ESD<sub>v</sub>) in a combination of Environmental Site Design (ESD) measures and onsite structural storage.

Mr. Wyndham Robertson  
August 30, 2021  
Page 2

Staff has determined that the SWM Concept, as described below, achieves the required level of on-site ESD to the Maximum Extent Practicable (MEP),  $P_E = 1.01$ -inch, equivalent to 52 percent of the required  $ESD_v$ , as established by the Pre-Application SWM Concept approval letter.

This site is 20.58 acres and is identified as Parcels A and C, King's Addition to Shady Grove, subject to annexation by the City's Mayor and Council (ANX2020-00146), and Parcel P170 situated at 16200 Frederick Road. The proposed development includes the construction of residential townhouses and stacked condominium townhouses, a community center, and six public roads with associated infrastructure. The property is located in the Rock Creek Watershed and is proposed to be zoned Mixed-Use Corridor District (MXCD). The on-site soils are predominately Gaila and Glenelg Silt Loams and Urban Land, which are classified as hydrologic soil groups (HSG) B and D, respectively.

The property is currently 48 percent impervious and the proposed development is, therefore, defined as Redevelopment by the City Stormwater Ordinance. SWM is required for all new and replacement impervious area within the entire site area including all impervious area previously existing on the site that does not have SWM to current standards. According to the submitted Concept, the on-site impervious area subject to SWM is 13.75 acres. SWM also must be provided for imperviousness in a portion of the adjacent Frederick Road and Pleasant Drive right-of-way (ROW). According to the submitted Concept, the total impervious area in the adjacent ROW subject to SWM is 0.30 acre.

The proposed SWM Concept, as shown on the attachment and summarized in Table 1, provides a minimum  $P_E = 1.34$ -inch, equivalent to 70 percent of the required  $ESD_v$  (65,166 cf.  $ESD_v$  provided / 93,583 cubic feet (cf.)  $ESD_v$  required), in a combination of on-site measures including Permeable Pavement, At-Grade Micro-Bioretenention Facilities, Micro-Bioretenention Planter Box Facilities, and Roadside Micro-Bioretenention Planter Box Facilities.

The Concept also proposes a minimum of 25,287 cf. as underground structural measures in-lieu of providing full ESD. Structural facilities are proposed to be located on private property and within the public ROW.

Finally, the SWM Concept proposes SWM Alternative - Monetary Contribution in-lieu of providing full  $C_{pv}$  and  $Q_{p10}$  for the on-site impervious area and in-lieu of providing  $WQ_v$ ,  $C_{pv}$ , and  $Q_{p10}$  for the impervious area in the adjacent Frederick Road and Pleasant Drive ROW.

Mr. Wyndham Robertson  
 August 31, 2021  
 Page 3

*Table 1. SWM Concept Summary Table submitted with Project Plan on August 17, 2021.*

<b>SWM Summary Table</b>
Type of Concept: Annexation SWM Concept
COR: SMC2021-00002, PJT2021-00013
Property Address: 16200 Frederick Road, Rockville, Maryland 20855
Property Legal Description: Parcel 1 – Victor, Inc.; Parcel 2 – Frederick Road Limited Partnership
Property Size (ac./sq. ft.): 20.58 ac. / 896,476 sq. ft.
Total Concept Area (ac./sq. ft.): 20.37 ac. / 887,470 sq. ft.
Zoning: MXCD
Watershed and Stream Class: Rock Creek – I/I-P
Special Protection Area: No
100-YR Floodplain: N/A
Target $P_E$ / Proposed $P_E$ : 1.93 inches / 1.34 inches
Target $ESD_V$ / Provided $ESD_V$ : 93,583 cu. ft. / 65,166 cu. ft.
ESD Measures: Micro-Bioretenention and Permeable Pavement
Structural Storage Required / Provided: 28,417 cu. ft. / 25,287 cu. ft.
Structural Measures: Underground Stormwater Structures
Requested to be SWM Alternative – Monetary Contribution: 3,130 cu. ft. (on-site partial $C_{pv}$ )
Provided $ESD_V$ + Structural Storage Provided + Requested to be SWM Alt. = 93,583 cu. ft.
Other Information:

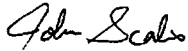
Any significant changes to the proposed development may result in the requirement to submit a revised SWM Concept with review fee for approval by the Department of Public Works.



Mr. Wyndham Robertson  
August 31, 2021  
Page 4

If you have questions, please contact Principal Civil Engineer Sean Murphy via email at smurphy@rockvillemd.gov or via telephone at 240-314-8535.

Sincerely,



John Scabis, P.E.  
Chief of Engineering

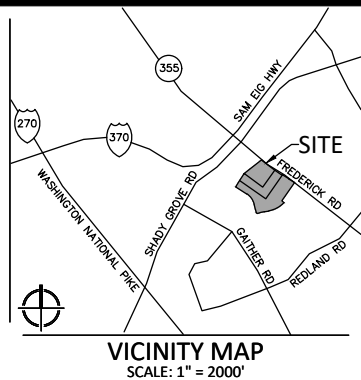
JKS/SKM/jap

Attachments: King Buick – Annexation SWM Concept Plan, dated August 17, 2021

cc: Jim Lapping, Engineering Supervisor  
John Foreman, Development Services Manager  
Sachin Kalbag, Principal Planner  
Shaun Ryan, Principal Planner  
Conrad Aschenbach, Victor, Inc.  
Barbara Sears, Miles & Stockbridge  
Logan Kelso, VIKI Maryland, LLC  
SWM Concept file  
Permit plan, PJT2021-00013, ANX2020-00146, SMC2021-00002  
Day file

Attachment 13.b: Agreement Exhibits Combined (3591 : Possible Adoption of an Annexation Agreement (King Buick))

DEVELOPMENT STORMWATER MANAGEMENT  
SMC#: SMCXXXX-XXXXX  
**KING BUICK**  
4TH ELECTION DISTRICT ROCKVILLE  
MONTGOMERY COUNTY, MARYLAND



**VIKA**  
VIKA MARYLAND, LLC  
20251 Century Blvd., Suite 400  
Germantown, MD 20874  
301.916.4100 | [vika.com](http://vika.com)  
*Our Site Set on the Future.*

PREPARED FOR:  
**EYA DEVELOPMENT LLC**  
4800 HAMPDEN LN.  
SUITE 300  
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BARBARA SEARS

PLANNER, LANDSCAPE ARCHITECT  
& CIVIL ENGINEER:  
**VIKA MARYLAND, LLC**  
20251 CENTURY BLVD.  
SUITE 400  
GERMANTOWN, MD 20874  
301-916-4100  
James Buchheister, RLA  
Robert Tilson, FALSA, PLA  
Logan Kelso, P.E.

[illegible]

KING BUICK

4TH ELECTION DISTRICT  
MONTGOMERY COUNTY,  
MARYLAND  
WSSC GRID: 222NW08  
WSSC GRID: 221NW08  
TAX MAP: GS12

# DEVELOPMENT STORMWATER MANAGEMENT COVER SHEET

STP2021-000

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PROFESSIONAL SEAL



I HEREBY CERTIFY THAT THESE DOCUMENTS WERE  
PREPARED OR APPROVED BY ME, AND THAT I AM  
A DULY LICENSED PROFESSIONAL ENGINEER  
UNDER THE LAWS OF THE STATE OF MARYLAND.  
ENGINEER'S NAME: LOGAN B. KELSO, P.E.  
LICENSE No.: 51971  
EXPIRATION DATE: DECEMBER 10, 2021

INTELLECTUAL PROPERTY. THESE DRAWINGS AND/OR DOCUMENTS MUST NOT BE FORWARDED, SHARED, COPIED, DIGITALLY CONVERTED, MODIFIED OR USED FOR ANY PURPOSE, IN ANY FORMAT, WITHOUT PRIOR WRITTEN AUTHORIZATION FROM VIKI MARYLAND, LLC. VIOLATIONS MAY RESULT IN PROSECUTION. ONLY APPROVED, SIGNED AND SEALED PLANS OR DRAWINGS MAY BE UTILIZED FOR CONSTRUCTION PURPOSES.

DRAWN BY: TG  
DESIGNED BY: LBK  
DATE ISSUED: AUG 13, 2021

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VIKA  
PROJECT VM50420

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DRAWING  
NO. SWC-1

SHEET NO. **Packet Pg. 140**

## STORMWATER MANAGEMENT CONCEPT GENERAL NOTES

1. ALL STORM DRAIN PIPES PROPOSED ARE EITHER REINFORCED CONCRETE PIPE (RCP), HIGH PERFORMANCE POLYPROPYLENE (HP) OR POLYVINYL CHLORIDE (PVC).
2. STORM DRAIN PIPE SIZES SHOWN ARE ESTIMATED AND ARE SUBJECT TO CHANGE DURING FINAL ENGINEERING DESIGN.
3. QUANTITY AND LOCATION OF ENVIRONMENTAL SITE DESIGN (ESD) MEASURES ARE SUBJECT TO CHANGE DURING FINAL ENGINEERING DESIGN.
4. ALL WATER AND SEWER LINES SHOWN ARE APPROXIMATE AND ARE SUBJECT TO CHANGE UPON FINAL ENGINEERING DESIGN.
5. ALL WATER AND SEWER MAINS SHALL BE PUBLIC. (WSSC)
6. ALL STREETS ARE PROPOSED TO BE PUBLIC AND WILL BE MAINTAINED BY THE CITY.
7. ALL UTILITY LAYOUTS SHOWN ON THIS CONCEPT PLAN ARE SUBJECT TO ADJUSTMENT IN LOCATION, SIZE AND CONFIGURATION DURING FINAL ENGINEERING TO ACCOMMODATE LOCATIONS OF TREES, DRY UTILITIES, STREET LIGHTS AND OTHER CONFLICTING FEATURES. LAYOUTS SHOWN HEREON ARE CONCEPTUAL AND NOT INTENDED TO REFLECT FINAL LOCATION OF THESE UTILITIES.

Development SWM Summary Table

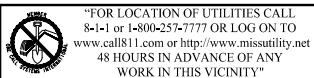
Type of Concept: Annexation Stormwater Management Concept
COR: SMC2021-00002, PJT2021-00013
Property Address: 16200 Frederick Road, Rockville, MD 20855
Property Legal Description: Parcel 1 - Victor, Inc.; Parcel 2 - Frederick Road Limited Partnership
Property Size(ac./sq.ft.): 20.58 acres/ 896,476 square feet
Total Concept Area (ac./sq.ft.): 20.37 acres/ 887,470 square feet
Zoning: Mixed Use Corridor district (MXCD)
Watershed and Stream Class: Rock Creek - II-P
Special Protection Area: No
100 YR Floodplain: n/a
Target Pe / Proposed Pe: 1.93 inches / 1.34 inches
Target ESDv/ Provided ESDv: 93,583 cu.ft./ 65,166 cu.ft.
ESD Measures: Micro Bioretention & Permeable Pavement
Structural Storage Required/ Provided: 28,417 cu.ft./ 25,287 cu.ft.
Structural Measures: Underground Stormwater Structures
Requested to be Waived: 3,130 cu.ft. (on-site partial WQv and Cpv)
Provided ESDv + Structural Storage Provided + Requested to be Waived = 93,583cu.ft.
Other Information:

## STORMWATER MANAGEMENT TO THE MAXIMUM EXTENT PRACTICABLE JUSTIFICATION STATEMENT

PER CITY OF ROCKVILLE CODE – CHAPTER 19, SECTION 19.05-50.C, NEITHER THE COST OF PROVIDING ON-SITE STORMWATER MANAGEMENT NOR THE LOSS OF DEVELOPMENT DENSITY RESULTING FROM ON-SITE STORMWATER MANAGEMENT IS SUFFICIENT JUSTIFICATION FOR A REQUEST OF MONETARY CONTRIBUTION. THE FOLLOWING CONSTRAINTS ENHANCE THE HARDSHIP IN PROVIDING FULL STORMWATER MANAGEMENT TREATMENT, WHILE ALSO PROPOSING AN APPROPRIATE LEVEL OF DENSITY THAT THE PROPOSED ZONING ALLOWS.

- THE EXISTING SITE TOPOGRAPHY IS CHALLENGING TO CAPTURE AND TREAT DRAINAGE ALONG THE EDGE CONDITIONS WHILE MAINTAINING NECESSARY BUFFERING TO ADJACENT PROPERTIES.
- THE EXISTING SITE TOPOGRAPHY IS HIGHER ALONG THE EDGES FOR THE MAJORITY OF THE SITE, MAKING IT CHALLENGING TO CAPTURE AND TREAT DRAINAGE ALONG THE EDGE CONDITIONS WHILE MAINTAINING NECESSARY BUFFERING TO ADJACENT PROPERTIES.
- IN EXISTING CONDITIONS, THE STORM DRAIN TIE OUT POINT IS AN AT-GRADE HEADWALL. CONSIDERING THE EDGE CONDITIONS AT THE FREDERICK ROAD RIGHT-OF-WAY, AND LIMITING THE EXISTING FILL ON-SITE, THE PROPOSED CLOSED CONDUIT CONNECTION TO THE HEADWALL CREATES VERTICAL CONSTRAINTS THAT LIMIT THE ESDS AND STRUCTURAL OPPORTUNITY THROUGHOUT THE SITE.

IN ADDITION TO THOSE CONSTRAINTS, THE APPLICANT IS ACCOMMODATING THE SWM FACILITIES WITH CONCRETE MICRO-BIORETENTION FACILITIES, UNDERGROUND STRUCTURAL VAULTS, DEEP FOUNDATIONS, ETC., AT SIGNIFICANT ADDITIONAL EXPENSE, HIGHLIGHTING THAT THE COST OF THE PROVIDING STORMWATER MANAGEMENT IS NOT THE REASON ADDITIONAL TREATMENT IS NOT BEING PROVIDED. ALTHOUGH THE DEVELOPMENT QUALIFIES AS A REDEVELOPMENT PROJECT, ACCORDING TO CHAPTER 19 OF THE CITY OF ROCKVILLE CODE, THE PROJECT GREATLY EXCEEDS THE MINIMUM ESD STORMWATER MANAGEMENT CRITERIA REQUIRED AND PROVIDES APPROXIMATELY 95% OF THE TOTAL TREATMENT THROUGH A COMBINATION OF BOTH ESD AND STRUCTURAL FACILITIES, THUS PROVIDING STORMWATER MANAGEMENT TO THE MAXIMUM EXTENT PRACTICABLE.



LAYOUT: SWC-1, Plotted By: pasciotti

## SHEET INDEX

SWC	1 OF 11	DEVELOPMENT STORMWATER MANAGEMENT COVER SHEET
SWC	2 OF 11	DEVELOPMENT STORMWATER MANAGEMENT DRAINAGE AREA MAP
SWC	3 OF 11	DEVELOPMENT STORMWATER MANAGEMENT OVERALL
SWC	4 OF 11	DEVELOPMENT STORMWATER MANAGEMENT 30' SCALE PLAN
SWC	5 OF 11	DEVELOPMENT STORMWATER MANAGEMENT 30' SCALE PLAN
SWC	6 OF 11	DEVELOPMENT STORMWATER MANAGEMENT 30' SCALE PLAN
SWC	7 OF 11	DEVELOPMENT STORMWATER MANAGEMENT 30' SCALE PLAN
SWC	8 OF 11	DEVELOPMENT STORMWATER MANAGEMENT DETAILS
SWC	9 OF 11	DEVELOPMENT STORMWATER MANAGEMENT DETAILS
SWC	10 OF 11	DEVELOPMENT STORMWATER MANAGEMENT DETAILS
SWC	11 OF 11	DEVELOPMENT STORMWATER MANAGEMENT DETAILS

SBW ESD FACILITIES SUMMARY TABLE							
Micro Bio-restoration Facility	Total Dose (Ac-ft)	Total Impervious (Ac-ft)	Percent Impervious	Planter Area (sq ft)	Planting Media Depth (in)	ESD's Provided (cft)	P's Provided
MBF-1	0.02	0.02	100%	79	48	255	250
MBF-2	0.12	0.08	67%	239	48	669	241
MBF-3 (E)	0.13	0.11	85%	333	48	661	266
MBF-4	0.02	0.04	200%	48	118	268	268
MBF-5	0.35	0.29	83%	944	48	2,636	2,550
MBF-6	0.22	0.22	100%	508	48	1,534	2,500
MBF-7A (E)	0.29	0.29	100%	303	30	1,271	1,264
MBF-7B (E)	0.26	0.17	65%	330	30	1,188	1,195
MBF-7C (E)	0.40	0.20	50%	467	36	1,783	2,43
MBF-8	0.12	0.18	150%	183	48	578	1,65
MBF-9	0.04	0.03	75%	114	48	310	260
MBF-10	0.04	0.02	50%	121	48	300	260
MBF-11	0.20	0.18	90%	302	36	1,456	2,30
MBF-13	0.13	0.08	62%	273	48	709	260
MBF-14	0.45	0.17	38%	666	24	1,567	2,65
MBF-15	0.14	0.14	100%	352	24	1,083	2,14
MBF-16	0.10	0.10	100%	267	48	694	2,24
MBF-17	0.07	0.06	86%	186	48	547	264
MBF-18	0.13	0.03	23%	300	30	1,044	2,60
MBF-19	0.11	0.10	91%	257	48	720	2,10
MBF-20	0.21	0.05	24%	199	48	535	2,60
MBF-21	0.07	0.05	67%	167	48	425	2,60
MBF-22	0.06	0.04	67%	187	48	360	2,12
MBF-23	0.24	0.18	75%	481	48	1,347	2,12
MBF-24	0.05	0.05	100%	120	48	316	2,60
MBF-25	0.14	0.14	100%	457	48	1,278	2,60
MBF-26 (E)	0.09	0.04	44%	93	24	403	2,60
MBF-27	0.18	0.04	22%	114	48	1,112	2,60
MBF-28	0.13	0.11	85%	468	42	1,184	2,60
MBF-29	0.18	0.16	89%	553	42	1,360	2,45
MBF-30	0.19	0.19	100%	398	36	1,313	2,10
MBF-31	0.24	0.21	88%	422	36	1,115	1,37
MBF-32	0.20	0.23	115%	599	48	1,677	2,13
MBF-33 (E)	0.19	0.18	95%	175	18	1,330	1,40
MBF-34	0.05	0.04	50%	144	48	350	2,60
MBF-35 (E)	0.10	0.06	60%	145	48	522	2,41
MBF-36	0.13	0.13	100%	27	395	730	1,89
MBF-37	0.07	0.07	100%	111	24	422	1,83
MBF-38	0.09	0.08	100%	230	48	280	1,50
MBF-39	0.07	0.07	100%	124	48	247	1,43
MBF-40	0.07	0.07	100%	147	48	412	1,74
MBF-41	0.06	0.06	100%	119	48	283	1,72
MBF-42	0.09	0.09	100%	165	48	419	2,60
MBF-44	0.09	0.09	100%	193	48	540	1,78
MBF-45	0.09	0.02	22%	124	36	245	2,60
MBF-46	0.09	0.02	22%	137	42	369	2,60
MBF-48 (E)	0.06	0.05	83%	121	48	414	2,60
MBF-49	0.04	0.03	75%	124	36	254	2,60
MBF-50	0.05	0.05	100%	154	24	431	2,40
MBF-49 (E)	0.06	0.04	67%	124	24	385	2,60
MBF-52 (E)	0.05	0.04	80%	115	36	260	1,79
MBF-53	0.06	0.05	83%	127	24	412	2,60
MBF-54 (E)	0.05	0.04	80%	124	24	339	2,60
MBF-55 (E)	0.04	0.03	75%	183	24	378	2,60
MBF-56 (E)	0.04	0.03	75%	183	24	378	2,60
MBF-57 (E)	0.09	0.06	67%	149	24	536	2,40

Permeable Pavement	Year class volumes generated by emissions = 100000					Weight
PP-2	0.17	0.17	100%	2,248		674.115
PP-3	0.06	0.06	65%	801		240.128
PP-4	0.12	0.12	100%	1,368		476.138
PP-5	0.02	0.12	100%	1,955		450.174
PP-6	0.13	0.13	100%	1,608		468.121
PP-7	0.22	0.22	100%	3,055		907.200
PP-8	0.06	0.06	83%	820		246.131
PP-9	0.20	0.20	100%	2,770		831.120
PP-10	0.05	0.05	83%	792		239.128
PP-11	0.26	0.26	100%	3,415		1,024.116

ROADSIDE BIAS						
<b>STREET A</b>						
ROADSIDE B10 A2	0.94	0.02	50%	63	48	152
ROADSIDE B10 A4 (E)	0.08	0.03	50%	94	48	207
ROADSIDE B10 A5	0.03	0.02	67%	63	48	240
ROADSIDE B10 A6	0.03	0.04	75%	63	48	178
ROADSIDE B10 A8 (E)	0.06	0.03	50%	94	48	272
ROADSIDE B10 A9 (E)	0.06	0.04	67%	94	48	240
<b>STREET B</b>						
ROADSIDE B10 B3	0.07	0.04	57%	82	48	230
ROADSIDE B10 B4	0.03	0.02	67%	69	48	244
ROADSIDE B10 B7	0.08	0.06	75%	88	42	229
ROADSIDE B10 B9 (E)	0.03	0.02	50%	96	48	135
ROADSIDE B10 B11 (E)	0.06	0.05	83%	59	24	1,121
ROADSIDE B10 B11 (E)	0.05	0.04	80%	59	24	1,114
ROADSIDE B10 B13 (E)	0.05	0.04	80%	59	24	1,141
ROADSIDE B10 B14 (E)	0.05	0.04	80%	59	24	1,151
ROADSIDE B10 B15 (E)	0.05	0.04	80%	59	24	1,158
ROADSIDE B10 B16 (E)	0.05	0.04	80%	59	24	1,117
ROADSIDE B10 B17 (E)	0.04	0.03	75%	59	24	1,117
ROADSIDE B10 B20	0.07	0.05	71%	92	48	256
ROADSIDE B10 B21	0.06	0.05	81%	61	48	171
ROADSIDE B10 B22	0.06	0.05	83%	61	48	179
ROADSIDE B10 B23	0.03	0.02	67%	61	48	171
<b>STREET C</b>						
ROADSIDE B10 C1	0.93	0.02	67%	61	48	171
ROADSIDE B10 C2	0.02	0.01	50%	90	48	132
ROADSIDE B10 C3	0.08	0.02	65%	92	48	258
ROADSIDE B10 C7	0.07	0.07	100%	92	48	266
ROADSIDE B10 C10	0.07	0.03	43%	100	48	232
ROADSIDE B10 C13	0.07	0.03	67%	92	48	256
ROADSIDE B10 C14	0.02	0.01	50%	81	48	182
ROADSIDE B10 C15	0.02	0.01	50%	61	48	180
ROADSIDE B10 C17 (E)	0.06	0.04	83%	61	30	1,220
ROADSIDE B10 C18 (E)	0.06	0.05	63%	61	30	1,230
ROADSIDE B10 C19 (E)	0.05	0.04	80%	61	30	1,248
ROADSIDE B10 C20 (E)	0.03	0.02	67%	61	30	168
ROADSIDE B10 C21 (E)	0.03	0.02	67%	61	30	168
ROADSIDE B10 C22 (E)	0.04	0.03	75%	61	48	220
ROADSIDE B10 C24 (E)	0.08	0.06	75%	92	48	230
ROADSIDE B10 C25 (E)	0.04	0.03	61%	61	48	130
ROADSIDE B10 C27	0.03	0.02	67%	100	48	162
ROADSIDE B10 C28	0.05	0.04	80%	59	48	164
ROADSIDE B10 C29	0.04	0.03	75%	88	48	230
ROADSIDE B10 C30	0.02	0.01	50%	88	48	120
ROADSIDE B10 C31	0.02	0.02	100%	88	48	152
ROADSIDE B10 C32	0.03	0.02	67%	88	48	160
ROADSIDE B10 C34	0.06	0.04	67%	57	48	156
ROADSIDE B10 C36	0.04	0.02	50%	88	48	227
ROADSIDE B10 C38	0.03	0.02	67%	88	48	111

ROADSIDE BIO C09	0.0	0.02	67%	88	45	148	2.60
ROADSIDE BIO C40	0.02	0.01	50%	59	24	168	2.80
ROADSIDE BIO C41 (E)	0.05	0.04	80%	59	24	180	2.80
ROADSIDE BIO C42 (E)	0.05	0.04	80%	59	24	210	1.54
ROADSIDE BIO C43 (E)	0.05	0.03	60%	59	24	210	1.77
ROADSIDE BIO C44	0.02	0.01	50%	59	24	180	2.60
ROADSIDE BIO C45 (E)	0.04	0.03	75%	59	24	277	2.80
ROADSIDE BIO C46	0.02	0.01	50%	59	48	111	2.80
ROADSIDE BIO C47 (E)	0.04	0.03	75%	59	48	277	2.60
<b>STREET D</b>							
ROADSIDE BIO D1	0.02	0.01	50%	100	48	133	2.60
ROADSIDE BIO D2	0.04	0.02	80%	92	48	231	2.80
ROADSIDE BIO D4 (E)	0.05	0.03	75%	48	231	220	2.60
ROADSIDE BIO D5 (E)	0.06	0.05	83%	61	48	220	1.38
ROADSIDE BIO D6 (E)	0.05	0.04	80%	61	48	220	1.47
ROADSIDE BIO D7 (E)	0.05	0.05	83%	61	48	220	1.37
ROADSIDE BIO D8 (E)	0.06	0.04	67%	61	30	220	1.42
ROADSIDE BIO D9	0.02	0.01	50%	61	36	96	2.80
ROADSIDE BIO D11	0.02	0.01	50%	61	36	139	2.60
ROADSIDE BIO D12	0.03	0.01	33%	47	30	129	2.80
ROADSIDE BIO D13 (E)	0.04	0.02	50%	67	42	169	2.60
ROADSIDE BIO D14	0.03	0.01	100%	100	48	70	2.60
ROADSIDE BIO D15	0.03	0.01	33%	100	48	127	2.60
ROADSIDE BIO D16	0.02	0.02	100%	61	48	141	2.80
ROADSIDE BIO D17	0.02	0.01	50%	61	139	220	2.60
ROADSIDE BIO D18	0.02	0.01	50%	61	48	109	2.60
ROADSIDE BIO D19	0.03	0.01	33%	100	48	129	2.60
<b>STREET E</b>							
ROADSIDE BIO E1	0.02	0.02	100%	59	48	139	2.58
ROADSIDE BIO E3 (E)	0.08	0.05	63%	88	48	317	1.75
ROADSIDE BIO E4	0.02	0.01	50%	59	48	68	2.80
ROADSIDE BIO E5	0.04	0.02	60%	88	48	19	2.60
ROADSIDE BIO E6	0.03	0.02	67%	59	48	152	2.60
ROADSIDE BIO E8	0.02	0.01	50%	59	30	109	2.80
ROADSIDE BIO E9	0.05	0.01	100%	100	48	8	2.58
ROADSIDE BIO E10	0.05	0.05	100%	59	48	210	1.32
ROADSIDE BIO E11 (E)	0.07	0.04	57%	61	48	220	1.38
ROADSIDE BIO E12 (E)	0.08	0.03	60%	88	48	220	1.70
ROADSIDE BIO E13	0.03	0.02	67%	92	42	159	2.60
ROADSIDE BIO E14 (E)	0.07	0.04	57%	92	36	331	2.16
<b>STREET F</b>							
ROADSIDE BIO F1	0.03	0.02	67%	61	48	157	2.80
ROADSIDE BIO F3 (E)	0.04	0.02	50%	61	48	188	2.80
ROADSIDE BIO F5	0.02	0.02	100%	61	148	220	2.60
ROADSIDE BIO F8 (E)	0.03	0.03	80%	61	48	220	2.60
ROADSIDE BIO F9 (E)	0.06	0.04	67%	52	48	330	2.58
ROADSIDE BIO F9	0.02	0.01	50%	61	48	133	2.60
ROADSIDE BIO F10 (E)	0.02	0.02	87%	61	189	220	2.58
ROADSIDE BIO F11	0.02	0.01	50%	92	48	136	2.60
ROADSIDE BIO F12	0.03	0.02	67%	92	48	215	2.59
ROADSIDE BIO F13	0.02	0.01	50%	61	114	220	2.60
ROADSIDE BIO F14 (E)	0.04	0.02	50%	61	48	215	2.60
ROADSIDE BIO F15	0.04	0.02	50%	92	48	193	2.80
ROADSIDE BIO F20 (E)	0.03	0.03	38%	52	48	254	2.60
ROADSIDE BIO F21	0.07	0.02	29%	70	48	174	2.59
ROADSIDE BIO F22	0.05	0.01	20%	76	48	133	2.

[illegible]

Structural Facility	Structural Imperious		Percent Imperious	Storage Depth (ft)	Volume Provided (cu ft)	Fe Provided
	DA (Ac.)	Area (Ac.)				
SWM #1	0.02	0.06	93%	3.50	7,775	2.60
SWM #2	0.08	0.08	100%	4.00	763	2.60
SWM #3	0.08	0.08	100%	4.00	763	2.60
SWM #4	0.05	0.06	83%	3.15	593	2.60
SWM #5	0.24	0.19	79%	3.00	1,495	2.28
SWM #6	0.03	0.19	15%	7.00	1,732	2.60
SWM #11	0.65	0.50	77%	8.00	4,542	2.60
SWM #12	0.50	0.47	94%	8.00	2,567	1.62
Grand Total SWW Structural Volume Provided						
					28,750	

## Planning and Development Services Received

8/17/2021  
STP2022-00433

**THIS PLAN IS FOR STORMWATER MANAGEMENT ONLY**



PREPARED FOR:  
EYA DEVELOPMENT LLC  
4800 HAMPDEN LN.  
SUITE 300  
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301-634-8649  
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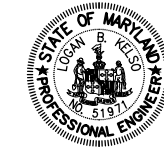
**ATTORNEY:**  
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**PLANNER, LANDSCAPE ARCHITECT  
& CIVIL ENGINEER:**  
**VIKA MARYLAND, LLC**  
20251 CENTURY BLVD.  
SUITE 400  
GERMANTOWN, MD 20874  
301-916-4100  
James Buchheister, RLA  
Robert Tilson, FASLA, PLA  
Lozan Kelsö, P.E.

[illegible]

4TH ELECTION DISTRICT  
MONTGOMERY COUNTY,  
MARYLAND  
WSSC GRID: 222NW08  
WSSC GRID: 221NW08  
TAX MAP: GS12

PROFESSIONAL SEAL



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DRAWN BY: TG  
DESIGNED BY: LBK  
DATE ISSUED: AUG 13, 202

VIKA  
PROJECT **VM50420**

DRAWING  
NO. **SWC-2**

SHEET NO.

Packet Pg. 141

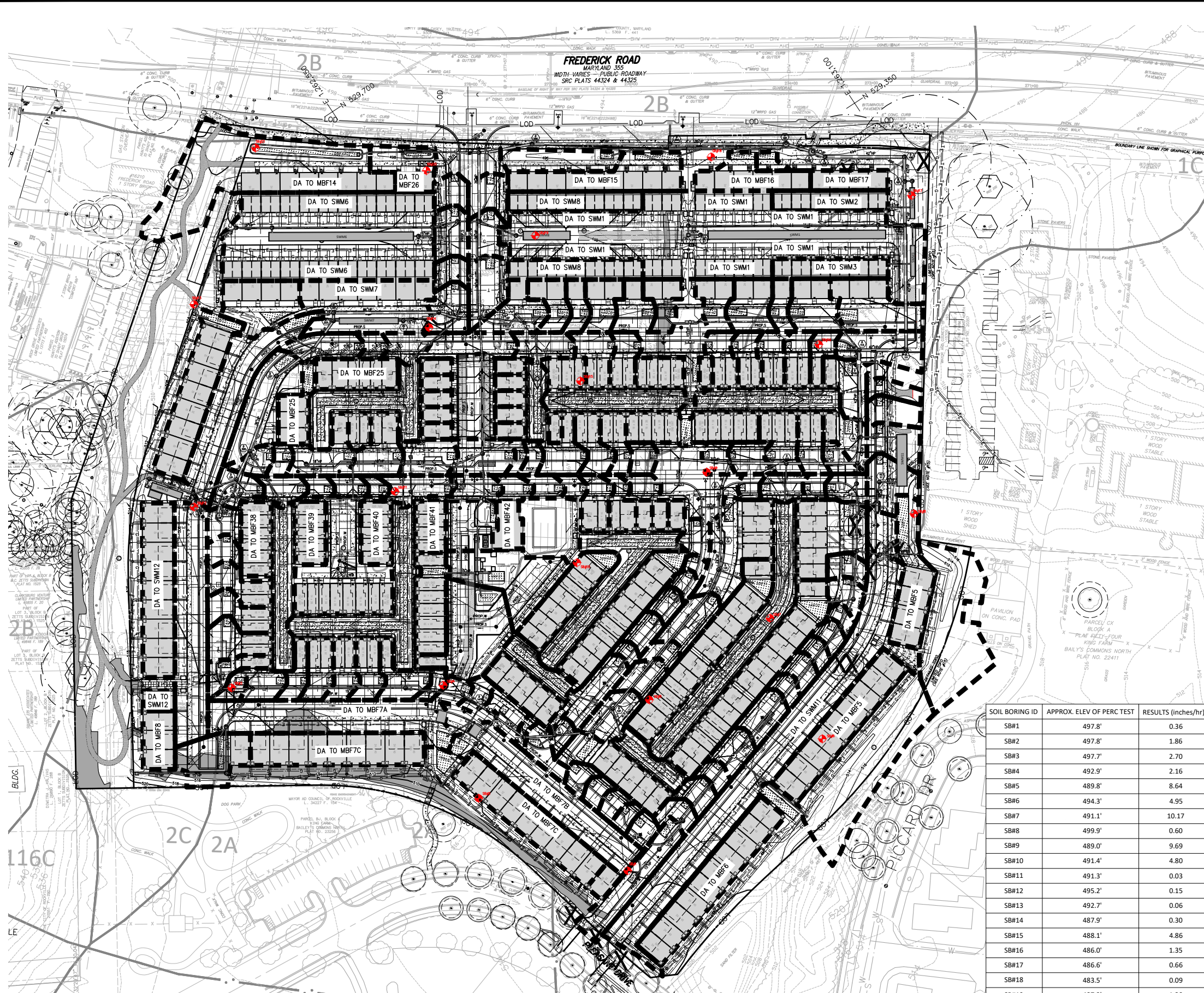


VICINITY MAP  
SCALE: 1" = 2000'

### PLAN LEGEND

	PROPERTY LINES
	EXISTING CABLE TELEVISION CONDUIT
	EXISTING ELECTRICAL CONDUIT
	EXISTING EDGE OF PAVEMENT
	EXISTING FENCE LINE
	EXISTING NATURAL GAS CONDUIT
	EXISTING OVERHEAD WIRES
	EXISTING TELEPHONE CONDUIT
	EXISTING PUBLIC UTILITIES EASEMENTS
	EXISTING SANITARY SEWER CONDUIT
	EXISTING STORM DRAIN CONDUIT
	EXISTING WATER CONDUIT
	EXISTING ZONE LIMITS
	PROPOSED 10' CONTOUR
	PROPOSED 2' CONTOUR
	PROPOSED WATER LINE
	PROPOSED SANITARY SEWER WITH STRUCTURE
	PROPOSED STORM DRAIN
	PROPOSED LIMITS OF DISTURBANCE
	PROPOSED STORM DRAIN EASEMENT
	PROPOSED WSSC EASEMENT
	EXISTING PARKING LABEL
	EXISTING SANITARY CLEANOUT
	EXISTING STORM DRAIN MANHOLE
	EXISTING ELECTRICAL JUNCTION BOX
	EXISTING ELECTRICAL MANHOLE
	EXISTING FIRE DEPARTMENT CONNECTION
	EXISTING FIRE HYDRANT
	EXISTING GAS MANHOLE
	EXISTING GUY POLE
	EXISTING GAS VALVE
	EXISTING LIGHT POLE
	EXISTING PHONE PEDESTAL
	EXISTING PHONE MANHOLE
	EXISTING UTILITY POLE
	EXISTING SANITARY MANHOLE
	EXISTING TRAFFIC CONTROL BOX
	EXISTING TRAFFIC SIGNAL POLE
	EXISTING TREE
	EXISTING CABLE TELEVISION PEDESTAL
	EXISTING UNKNOWN UTILITY MANHOLE
	EXISTING WATER METER
	EXISTING WATER MANHOLE
	EXISTING WATER VALVE
	EXISTING BOLLARD
	EXISTING SIGN POST
	EXISTING WOOD POST
	EXISTING INLETS
	EXISTING CURB INLET
	EXISTING CONCRETE
	EXISTING CURB AND GUTTER
	EXISTING BUILDING
	EXISTING STORY
	EXISTING ELECTRICAL TRANSFORMER
	EXISTING ASPHALT
	EXISTING EASEMENT
	EXISTING REINFORCED CONCRETE PIPE
	EXISTING CORRUGATED METAL PIPE
	EXISTING BUILDING RESTRICTION LINE
	EXISTING RIGHT-OF-WAY
	PROPOSED LIGHTS
	PEDESTRIAN LIGHTS
	PROPOSED TREE
	PROPOSED PARKING LABELS
	PROPOSED SIDEWALK
	PROPOSED FIRE HYDRANT
	DOOR LOCATION
	PROPOSED SWM FACILITY
	PROPOSED UNDERGROUND STORMWATER STRUCTURE
	PROPOSED STORMWATER EASEMENT
	PROPOSED STORMWATER ACCESS PATH
	PROPOSED PERMEABLE PAVEMENT
	PROPOSED DRAINAGE DIVIDES
	SOILS
	STEEP SLOPES
	DEEP FOOTER
	PROPOSED UNDERDRAIN
	SOIL BORING

**THIS PLAN IS FOR STORMWATER MANAGEMENT ONLY**



SOIL BORING ID	APPROX. ELEV OF PERC TEST	RESULTS (inches/hr)
SB#1	497.8'	0.36
SB#2	497.8'	1.86
SB#3	497.7'	2.70
SB#4	492.9'	2.16
SB#5	489.8'	8.64
SB#6	494.3'	4.95
SB#7	491.1'	10.17
SB#8	499.9'	0.60
SB#9	489.0'	9.69
SB#10	491.4'	4.80
SB#11	491.3'	0.03
SB#12	495.2'	0.15
SB#13	492.7'	0.06
SB#14	487.9'	0.30
SB#15	488.1'	4.86
SB#16	486.0'	1.35
SB#17	486.6'	0.66
SB#18	483.5'	0.09
SB#19	487.2'	1.86
SB#20	486.7'	0.57
SB#21	489.6'	1.62

NOTE: INFILTRATION RATES PROVIDED BY ECS MID-ATLANTIC,  
PRELIMINARY RESULTS DATED JULY 7, 2021

HORIZ. DATUM = NAD83/91  
VERT. DATUM = NGVD1929

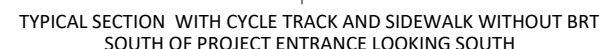
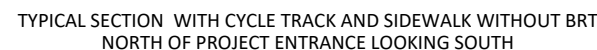
SCALE: 1"=60'

**"FOR LOCATION OF UTILITIES CALL  
8-1-1 or 1-800-257-7777 OR LOG ON TO  
[www.call811.com](http://www.call811.com) or <http://www.missutility.net>  
48 HOURS IN ADVANCE OF ANY  
WORK IN THIS VICINITY"**

The excavator must notify all public utility companies with underground facilities in the area of proposed excavation and have those facilities located by the utility companies prior to commencing excavation. The excavator is responsible for compliance with requirements of Chapter 36A of the Montgomery County Code.

LAYOUT: SWC=2 Plotted By: pnclett





KING BUIC  
16200  
FREDERICK  
ROAD

MD 355  
IMPROVEMENT  
AND  
DEDICATION  
AREA  
EXHIBIT G

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DRAWN BY: \_\_\_\_\_

DESIGNED BY: \_\_\_\_\_

DATE ISSUED: 9/1/2021

VIKA PROJECT VM50420

DRAWING NO. \_\_\_\_\_

### Our Site Set on the Fut

SUITE 300  
BETHESDA, MD 20814  
301-634-8649  
J. WYNDHAM ROBERTSON  
wyndhamr@eya.com

[illegible]

4TH ELECTION DISTRICT  
ROCKVILLE,  
MARYLAND  
TAX MAP: GS12

PROFESSIONAL SEAL

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DESIGNED BY: \_\_\_\_\_

DATE ISSUED: 9/1/2021

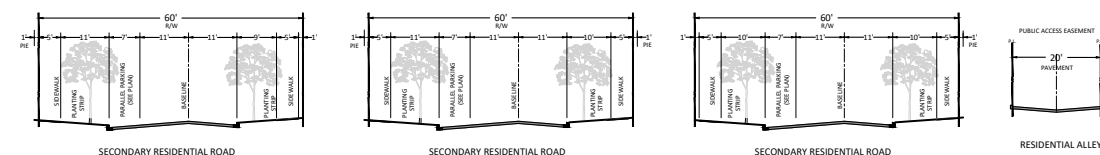
VIKI  
PROJECT VM50420

DRAWING  
NO.

Packet Pg. 143

		<b>SECTION</b> S.D.S.		02030 10/1997 REVISIONS  <b>DETAIL 45A</b>	
APPROVED: <u>9-17-2020</u>  DIRECTOR OF PUBLIC WORKS		CITY OF ROCKVILLE STANDARD DETAIL <b>SECONDARY RESIDENTIAL ROAD SECTION</b> PARKING ON BOTH SIDES		02030 10/1997 REVISIONS  <b>DETAIL 45C</b>	
APPROVED: <u>9-17-2020</u>  DIRECTOR OF PUBLIC WORKS		CITY OF ROCKVILLE STANDARD DETAIL <b>SECONDARY RESIDENTIAL ROAD SECTION</b> PARKING ON ONE SIDE (WAIVERED)		10/1997 REVISIONS  <b>DETAIL 45C</b>	
APPROVED: <u>9-17-2020</u>  DIRECTOR OF PUBLIC WORKS		CITY OF ROCKVILLE STANDARD DETAIL <b>RESIDENTIAL ALLEY</b>		10/1997 REVISIONS  <b>DETAIL 47</b>	

Diagram illustrating the cross-section of a 66' wide secondary residential road. The layout includes a 1' P/E (Paved Edge), a 6' SIDE WALK, a 10.5' PLANTING STRIP (containing trees), an 11' TRAVEL LANE, another 11' TRAVEL LANE, another 10.5' PLANTING STRIP (containing trees), and a final 6' SIDE WALK. The total width is 66'.



**Section A**

Secondary Residential Road  
Modified Detail 45A

Roadway Modifications:

- No parking
- Pavement width less than 26'

**Section B**

Secondary Residential Road  
Modified Detail 45C

Roadway Modifications:

- No parking
- Pavement width less than 26'

**Section C**

Secondary Residential Road  
Modified Detail 45C

Roadway Modifications:

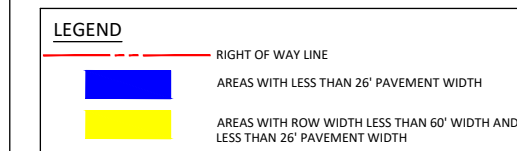
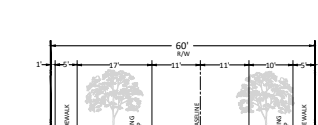
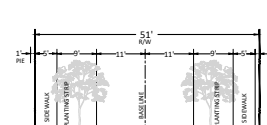
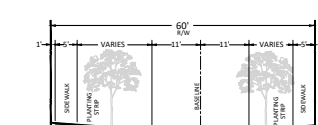
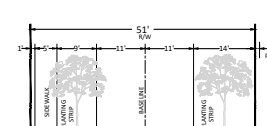
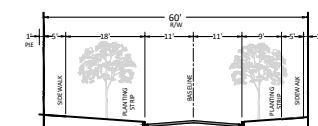
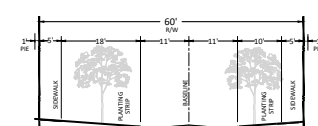
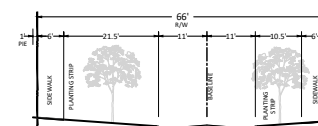
- No parking
- Pavement width less than 26'

**Section D**

Secondary Residential Road  
Modified Detail 45C

Roadway Modifications:

- No parking
- Pavement width less than 26'



## Exhibit I: Roadway Design Letter



City of  
**Rockville**  
Get Into It

111 Maryland Avenue | Rockville, Maryland 20850-2364 | 240-314-5000  
[www.rockvillemd.gov](http://www.rockvillemd.gov)

September 3, 2021

Mr. Jason Sereno  
Sr. Director of Development  
EYA Development, L.L.C.  
4800 Hampden Lane, Suite #300  
Bethesda, Maryland 20814

SUBJECT: 16200 Frederick Road – Roadway Design Layout

Dear Mr. Sereno:

As you know, City of Rockville Public Works staff has been working closely with EYA Development, L.L.C. (EYA) and their design team on the concept layout for the proposed King Buick development, including such aspects as roadway cross sections, curve radii, general roadway safety, and other features as proposed by EYA. By way of this letter, I hereby approve a waiver for the roadway curvature to be reduced down to 100 feet as shown on the current Project Plan submission, provided there are no sight distance conflicts found in the detailed engineering phase.

If you have questions, please feel free to contact me via email at [csimoneau@rockvillemd.gov](mailto:csimoneau@rockvillemd.gov) or via telephone at 240-314-8502.

Sincerely,

*Craig Simoneau*

Craig L. Simoneau, P.E.  
Director of Public Works

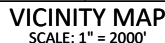
CLS/kmc

cc: John Foreman, Community Planning and Development Services Manager  
Jim Lapping, Engineering Supervisor  
Faramarz Mokhtari, Senior Transportation Planner  
Andrew Luetkemeier, Principal Transportation Engineer  
Day file



## Our Site Set on the Fut

**Attachment 13.b: Agreement Exhibits Combined (3591 : Possible Adoption of an Annexation Agreement (King Buick))**

[illegible]

16200  
FREDERICK  
ROAD

4TH ELECTION DISTRICT  
ROCKVILLE,  
MARYLAND  
TAX MAP: GS12

CONCEPTUAL  
FARMSTEAD  
PARKING PLAN  
EXHIBIT J

PROFESSIONAL SEAL

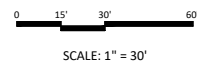
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DRAWN BY: \_\_\_\_\_  
DESIGNED BY: \_\_\_\_\_  
DATE ISSUED: 9/1/2021

VIKA  
PROJECT VM50420

DRAWING  
NO.

Packet Pg. 145



1. THE DESIGN SHALL INCLUDE THE NECESSARY UTILITIES, STORMWATER MANAGEMENT FACILITIES, FORESTRY PLANTINGS, LANDSCAPING, LIGHTING, ADA-COMPLIANT PARKING SPACES, AND AN ADA-ACCESSIBLE CONNECTION TO THE FARMSTEAD SUBJECT TO FINAL REVIEW AND APPROVAL BY CITY.
2. THE IMPROVEMENTS SHOWN ON THIS PLAN ARE SCHEMATIC AND MAY BE MODIFIED IF MUTUALLY AGREED ON BY THE DEVELOPER AND THE CITY OF ROCKVILLE.
3. FINAL DESIGN WILL PROVIDE APPROXIMATELY 47 PARKING SPACES
4. ACCESSIBLE WALKS FROM PARKING LOT TO FARM LANE ARE SCHEMATIC AND FINAL DESIGN TO BE COORDINATED WITH CITY OF ROCKVILLE STAFF.
5. ELECTRIC, TELEPHONE, GAS SERVICE ALIGNMENTS, AND ASSOCIATED PUBLIC UTILITY EASEMENTS ARE SCHEMATIC. THESE UTILITIES WILL BE BURIED TO A LOCATION AS SHOWN APPROXIMATELY ON THE PLAN OR AS REQUIRED BY PEPCO, WASHINGTON GAS, AND VERIZON/COMCAST.
6. PRIVATE UTILITY EASEMENTS ON THE KING BUICK SITE WILL BE TERMINATED UPON SUBDIVISION AND DEDICATION OF R/W TO MARYLAND STATE HIGHWAY ADMINISTRATION.



Mayor & Council Meeting Date: September 13, 2021

Agenda Item Type: Adoption

Department: PDS - Zoning Review & Other

Responsible Staff: Jim Wasilak

---

## Subject

Introduction and Possible Adoption of an Ordinance to Approve Zoning Text Amendment TXT2021-00260, to Modify the Requirements for Project Plans, Roadway Classifications in Mixed Use Zones, Minor and Major Site Plan Amendments, Development Approval Abandonment, the Definition of Demolition, and the Addition of Research and Development Use and Related Parking Standard; Mayor and Council of Rockville, Applicants

---

## Recommendation

Staff recommends that the Mayor and Council review the proposed ordinance, make any necessary changes, and if agreeable, introduce the ordinance.

If the Mayor and Council wish to proceed with adoption of the ordinance at the same meeting, the ordinance should first be introduced and then a motion should be made to waive the layover period. If the Motion to waive the layover period is approved by an affirmative vote of four or more members of the Mayor and Council, a motion to adopt the ordinance may then proceed.

---

## Change in Law or Policy

The purpose and intent of this application is to amend Chapter 25 of the Rockville City Code entitled "Zoning" by amending Sections 25.01, 25.03.02, 25.04.04, 25.05.07, 25.07, 25.13.03, 25.13.06, and 25.16.03 to modify the following: requirements for Project Plans, roadway classifications in mixed use zones, minor and major site plan amendments, and the definition of demolition; allow for development approval abandonment; and add research and development use as a permitted use in certain zones, including an associated parking standard.

---

## Discussion

The text amendment as authorized by the Mayor and Council includes the following proposed categories of changes to the Zoning Ordinance that implement our FAST program (improving our development review and permitting processes) by providing clarifications related to certain processes, addressing issues that have arisen during the review of recent development applications or proposals; and enhancing the City's ability to encourage economic recovery and attract businesses and major companies to the city.

This report reviews the aspects of the text amendment and incorporates the direction given by the Mayor and Council on July 12, 2021. A draft ordinance (see Attachment A) includes text recommended by staff to address the Mayor and Council's discussion and direction. Proposed changes to the text amendment are shown in red on Attachment B, while the amendment as filed is shown in Attachment C. Public comment received is shown at Attachment E and F.

These amendments as directed by the Mayor and Council were reviewed and discussed with Cindy Rivarde, REDI's Chief Executive Officer. Ms. Rivarde fully supported these changes in the effort to encouraged economic development and to improve Rockville's ability to attract new businesses and national headquarters.

### **Project Plan and Site Plan Review during Review of Pending Annexation Petition**

In recent years, the City has received site and project plans to be reviewed concurrently with an Annexation petition that includes all or a portion of the proposed development. While concurrent review of such development applications on properties that are also the subject of pending Annexation petitions is desirable from a procedural and competitive viewpoint, there may be instances when the development plan that is under review could have a different Approving Authority than an Annexation petition, which is ultimately approved by the Mayor and Council. This text amendment proposes that development applications that are submitted while an annexation is pending be processed as Project Plans, which are also approved by the Mayor and Council. This would allow the Mayor and Council to understand the proposed development on the property and how it relates to the decision to annex. This proposed change provides for more public review because Level 2 Site Plans, which are reviewed and approved by the Planning Commission, would be elevated to Project Plans, which requires a public hearing and a final decision by the Mayor and Council.

*Public Comment Received:* The letter received on behalf of Lantian suggests that this provision could add process for small projects that would be inappropriate in relation to the scale of the project, adding unnecessary time and cost to the development process.

*Staff Recommendation:* Staff recognizes that the intent of the amendment is to streamline the development review process even though there are good reasons to add process when related to an annexation, as articulated above. Staff further notes that any application that is filed after the annexation process has concluded would follow the process required by code.

Staff has added text to clarify that only concurrent applications that would otherwise be a Level 2 Site Plan would become Project Plans when processed with an Annexation petition. All other types of applications would be processed as per requirements.

### **Abandonment of an Approved Development Plan**

The proposed text amendment includes a provision that permits an applicant to abandon an approved Project Plan, Site Plan or Special Exception that has not been implemented. This

might occur as market or other conditions change such that the originally-approved plan is no longer feasible or desirable from the applicant's perspective. This also avoids the inherent conflict when redevelopment is approved for land that contains existing approved development that remains viable. An applicant could decide that the next best course of action is to proceed with reuse of structures per the previous approvals, and not implement the newly-approved development plan. In this case, it is in the City's best interest that the newly-approved entitlement that has not been implemented be abandoned so its future impacts will not need to be accounted for in addressing future transportation mitigation, forestry and stormwater management, as well as sewer and water upgrades for other proposed developments.

This aspect of the amendment is recommended, in part, to address the possibility of having major headquarters locate in Rockville. These headquarters would be located on property that already has a project plan approval, primarily for a townhome development. These new headquarters will occupy existing/modified office buildings and a substantially large new office building and, as such, would not follow the approved project plan. By allowing the owner to abandon the project plan, the new headquarters could move forward through an expedited site plan process, thus improving Rockville's ability to land these new headquarters.

*Public Comment Received:* Comments from Lantian indicates that they do not think that a provision to allow for project abandonment is needed, and that the right to do so exists. In addition, the requirement that the abandonment be agreed upon by all parties having a legal interest in the property is onerous and puts the City in the role of determining who has legal interest in the property. Lantian also suggested instead wording changes to indicate that no new additional uses exist and construction has not commenced, rather than when the building permit is issued.

*Staff Recommendation:* Staff continues to believe that the ability for a developer to formally abandon a project should be included in the Zoning Ordinance, as it provides for a transparent process. If such a provision is not added to the code, there is a possibility that the abandonment might not be accepted, for whatever reason.

The Mayor and Council supported the other text changes suggested by Lantian, above, as they provide more clarity, clearly indicating that new additional uses must not exist on the site, and no vesting of the development to be abandoned has occurred, which happens at the commencement of construction, per Maryland law.

### **Approval of Alternate Site Plans**

The text amendment recognizes the need for approval of alternate site plans, or site plans that deviate from an approved project plan, as an alternative to abandonment of an approved plan discussed previously. Currently, only site plans that are in conformance with an approved project plan may be approved on property included in the project plan. However, there may be circumstances when the developer wants a different type of project in the near term, due to unexpected circumstances, such as an economic opportunity that presents itself with a short

timeline. This amendment would allow entirely new site plans or site plan amendments to be approved that deviate from the approved project plan, provided that subsequent amendments are made to the approved project plan to achieve compliance with the previously-approved site plan. Alternate site plans must meet all development requirements, including zoning, but would not be required to meet the requirements of the previously-approved project plan, and would stand on their own merit until the project plan is amended, per below.

No site plan approvals made in compliance with the project plan would be allowed to continue, and the project plan itself would have to be amended within 18 months of the approval date of the alternate site plan. This would allow the remainder of the project plan to be adjusted so that compliance with all City requirements could be reviewed and evaluated for the larger project plan. This aspect of the proposed amendment could apply to the proposed new headquarters or other development proposals to allow them to move forward in an expedited manner.

***Public Comment Received:*** Lantian has noted that there are no criteria for what is not consistent with the approved project plan. Staff responds that criteria could be added to include type of use, location of use in the project plan, type of residential unit or project phasing, among other aspects that would indicate that a site plan proposal was not consistent with the approved site plan. Lantian also suggests the clarifying language be added to state that an alternate site plan is not required when the first site plan is consistent with the project plan, but the remaining phases are not. Lantian also suggests that the period by which the project plan must be amended be extended to two years, with two six-month extensions possible.

***Staff Recommendation:*** Staff notes that criteria defining inconsistency with a project plan could be easily developed but the Mayor and Council did not indicate that this was needed. The Mayor and Council did not support adding language allowing a site plan that is inconsistent with later phases of a project plan to proceed under the normal site plan approval process. Currently, the zoning ordinance requires site plans to be consistent with project plan approvals, and a site plan that is inconsistent with certain phases of an approved project plan is generally not approvable by the Planning Commission. It could also be inconsistent with stormwater management and adequate public facilities approvals associated with the project plan. Such a site plan would likely be a good candidate for the alternate site plan process.

Staff did not add text on how to address concerns regarding the use of vehicular trip generation analyzed as part of the project plan approval for alternate site plan approvals, which is more appropriately located in the Comprehensive Transportation Review (CTR). Regarding extending the modification period, the two-year period with the possibility of two six-month extensions is consistent with other time period extensions.

### **Reuse/Redevelopment for Non-residential Development**

With the potential to attract three new company headquarters and the future need to bring about commercial recovery from the effects of the pandemic, staff recommends that the



Mayor and Council consider a more streamlined process to administratively amend site plans in specific areas within Rockville's main non-residential corridors and growth areas, and away from our existing residential communities. These proposed amendments would allow for minor expansions to existing buildings and minor modifications to existing sites if they meet all of Rockville's development requirements, via the minor site plan amendment process.

At the July 12 meeting, the Mayor and Council requested more information on differentiating what is a Minor Site Plan Amendment that is approved by staff under the proposed amendment. The intent of this provision is to allow for faster approval of minor amendments to developed sites located in the MXTD, MXE, MXCD and I-L zones that might be needed for their revitalization, and to accommodate new businesses and potential national headquarters.

Examples of Minor Site Plan Amendments:

- Changes to site features, such as parking facilities, open space areas, and pedestrian or vehicular circulation elements;
- Changes in the mix of uses on a multi-tenant site or a change of use on a single use site, which under proposed code may be considered minor if the use(s) does not generate more than 20 peak hour trips and/or requires less parking;
- The allowance of building additions or new buildings subject to recommended criteria, including that no more than 29 peak hour trips be generated by the addition and/or new building, and that no more than 20 percent of the site be changed or disturbed (i.e., sites continue to be used and appear generally as they were initially permitted by the Approving Authority).

Proposals that exceeded these amounts would be processed as a Major Site Plan Amendment, subject to Planning Commission review and approval.

These proposed changes do not apply to properties within a historic district and within 300 feet of a residential area that is not separated by a significant right-of-way or open space areas. This applicability standard should protect the integrity of our residential communities through the Planning Commission's review and approval of projects located in these areas. With this condition, the minor reuse/redevelopment modifications that would be approved by staff will typically be located on older non-residential properties surrounded by other non-residential uses.

Specifically, this provision would apply mainly in the MXTD (Mixed-Use Transit District), MXCD (Mixed-Use Corridor District), MXE (Mixed-Use Employment) and I-L (Light Industrial) zones. It would encourage the reuse of existing vacant or under-utilized commercial buildings to the extent practical. This would increase the City's competitive advantage and ability to attract innovative users on sites throughout the city.

As a specific example, the applicant for the proposed major headquarter prospects desires to modify the existing out-of-date office buildings to increase the open space on site, reface the exterior, and reconfigure the parking lot and loading areas. Under our current ordinance, these relatively minor changes would require a lengthy process for a major site plan amendment. Staff review and approval is only allowed if these minor changes meet all of Rockville's development requirements. These changes are important for Rockville to attract sources of employment, such as headquarters and other economic development opportunities.

The proposed modifications to Sec. 25.05.07. Amendments to Approved Development, will expand the parameters for minor site plan amendments for reuse/redevelopment areas to include limited building additions and changes to the mix of uses on the site that have minimal effect in terms of traffic impact and the function of the use. The amendment will create a process that allows owners to make improvements to existing commercial structures or sites without having to go through a lengthy major site plan amendment review process and produce a detailed site and/or project plan. The outcome will remain the same, achieving compliance with all provisions of our City's code. Allowing for limited building additions will be a benefit to non-residential property owners, as it would provide for greater flexibility to reuse, revitalize or repurpose underused buildings, while reducing their costs and time.

Several Council members had concerns about staff-approval for the allowance of self-storage warehouse uses in the MXE Zone. Currently, there is a privately-initiated text amendment seeking to permit self-storage warehouse use in the MXE Zone. Under the current Zoning Ordinance, a new self-storage facility would not be allowed at all. Staff and REDI do not support this amendment; however, if the Planning Commission recommends some form of this amendment, or the Mayor and Council determine that it should be approved, staff would recommend that this type of change of use would not fall under staff approval, but only be allowed through approval by the Planning Commission. This would ensure sufficient scrutiny of an application that permits such a use into the zone only under certain circumstances and when all site plan findings can be made.

The Zoning Ordinance requires that any building addition or expansion be considered a major amendment, and the same review process as completed for the original site plan approval, even though only a small addition or reconfiguration is proposed. Staff recommends that additions that would generate less than 30 peak hour trips (threshold for traffic studies per the Comprehensive Transportation Review (CTR)), be processed as Minor Site Plan Amendments approved by staff only when compliant with all code requirements. This change should provide incentive to commercial property owners in the listed zones to make their properties more attractive, marketable and useable, while helping the City overcome setbacks caused by economic conditions with the advent of the coronavirus.

Public Comment Received: Lantian proposes that valid use permits and project plans be included in this section, in addition to site plans. Also, they had concerns about the 300 foot

separation distance and offered some solutions to that problem. They suggested that new buildings should be permitted to be added in this category, up to a certain size limit. They also suggested that the new R&D use be added to the office use category.

*Staff Recommendation:* Staff recommends that use permits be added to the text, as this was the terminology used prior to the adoption of the new Zoning Ordinance in 2009, and the terms mean the same in Rockville, but refer to different time periods. Staff does support minor administrative amendments to project plans and Planned Developments, provided that these changes do not result in:

1. An increase in overall project density;
2. A change in permitted uses or mix of uses; and
3. A deviation from any of the required conditions.

Staff notes that this section was recommended for modification to the Planning Commission to include properties separated from single family homes by major rights-of-way such as I-270 and the CSX/Metro tracks, properties that are separated by open space such that a buffer exists between the properties, and measuring the distance between the actual change and the dwellings to be at least 300 feet. As an example, there are common area parcels that separate the property owned by Lantian and the adjacent residential properties in King Farm that would qualify for this requirement. The intent is to provide for staff approvals while retaining the integrity of residential neighborhoods, and staff believes that these recommendations will address most of Lantian's concerns. Regarding the allowance of new buildings, staff believes if additional new buildings or accessory buildings do not generate 30 additional peak hour trips, then they should be considered for administrative approval. Staff has added text to address these concerns.

### **Minor Site Plan Amendments, Generally**

Per the current Zoning Ordinance, most site changes require approval of a site plan amendment, whether minor or major. The code identifies certain elements of a site that may be approved without a site plan application, including landscape maintenance and the addition of site features that have minimal impact on the site plan's function or design, including bike racks, benches and pergolas. The proposed text amendment proposes adding to this list with additional common site features that may be found on or are frequently added to commercial sites. These include emergency generators, transformers, trash and recycling bin enclosures, refrigeration equipment such as freezers and coolers and small storage sheds. The addition of these elements would not require a minor site plan amendment application to be approved for these to be added to a site, but could be reviewed and approved as part of the building permit process. PDS staff and any other appropriate staff would review these applications for compliance with zoning and other code requirements as part of the permit review process,

without the need for a separate site plan application. This proposed change is similar to how Montgomery County processes these requests.

**Public Comment Received:** Lantian suggested that limited building additions should be allowed, up to certain limits, in those areas not covered by the commercial redevelopment provisions above, and further recommended that changes in use that do not increase the parking requirement should not require a site plan amendment. Lantian also suggested that the zoning use categories noted in Sec. 25.05.07.c.1.(d.) reflect the categories in the code, and further suggested that language that would limit potential changes under this procedure to 20 percent of the site area, and not otherwise change the essential character of the development, is too vague.

**Staff Recommendation:** The Mayor and Council did not agree to impose the same limits (up to 30 peak hour trips) to allow for minor building additions in all zones of the city, since some zones, particularly those near and within residential zones, should receive the deserved scrutiny by the Planning Commission. Staff supports Lantian's proposal that changes in the mix of permitted uses on the site which do not create the need for additional parking should not require a site plan amendment, and the suggested changes to Sec. 25.05.07.c.1(d) to reflect the code categories.

### **Addition of Research and Development Use and Parking Requirement**

The City's Zoning Ordinance specifies which uses are permitted in each of the zones listed in the Zoning Ordinance. However, the current ordinance does not include research and development as a permitted use in the code. To date, these types of uses have been identified by their component uses, which may include office, lab or manufacturing uses in combination. Staff recommends that this use be added to the ordinance as permitted in the MXTD (Mixed-Use Transit District), MXCD (Mixed-Use Corridor District), MXE (Mixed-Use Employment) and I-L (Light Industrial) districts. Due to the city's proximity to the Great Seneca Life Sciences Corridor, the City could signal that it is welcoming to this use and would make it clear to property and business owners alike that their uses are permitted in Rockville. Staff therefore recommended the use be added to the code, which closely follows the definition in Montgomery County's ordinance.

With the introduction of a new use to the code, a corresponding parking requirement is in order. Staff recommends that this also match that of Montgomery County at 1.5 parking spaces per 1,000 square feet of gross floor area. This requirement represents a significant reduction from general office, but is in line with current requirements for manufacturing and lab space, at 2 parking spaces per 1,000 square feet. Staff notes that the parking requirements in the County were reviewed as part of the recent ordinance update, and this change will provide us equal footing with Montgomery County to make Rockville an attractive location for life science and research-related companies, which is a goal of the Mayor and Council.

*Public Comment Received:* Lantian suggests that the City also add a definition for “Life Sciences” that likewise mimics the County definition and provides more specificity on what life sciences are. Lantian also supports a parking requirement of 1.0 space per 1,000 square feet.

*Staff Recommendation:* Although the City’s recommended definition for Research and Development use also includes life science use, staff has added a definition for life sciences to the definitions but has not included it as a separate use so that wherever R&D use is allowed, Life Science is also allowed. Staff utilized the County definition for Life Sciences but recommends deleting references to Hospital and the Life Sciences Center.

As for required parking, the text amendment relied on Montgomery County standards, and was authorized for 1.0 spaces per 1,000 square feet. The County requires 1.0 spaces per 1,000 square feet for life sciences, as well as research and development uses within parking districts and other reduced parking areas, and 1.5 spaces per 1,000 square feet for those areas outside of a reduced parking area. Staff drafted the ordinance retaining the 1.0 space per 1,000 square feet as consistent with Montgomery County standards.

#### **Roadway Classification / Connections Required by Mixed Use Design Guidelines**

Section 25.13.06, which contains design guidelines for applications in the City’s mixed-use zones, requires that development projects in the City’s MXTD (Mixed-Use Transit District), MXCD (Mixed-Use Corridor District) and MXE (Mixed-use Employment) zones connect to an arterial, major or business district roadway, and not to streets classified as residential. These zones are generally located near Metro stations (MXTD); highway corridors such as MD 355 and I-270 (MXCD); and employment areas along Piccard Drive and Research Boulevard, among others in the MXE Zone. There are times when projects in these districts are less intense and would not demand this type of connection. In lieu of a mandate in the Zoning Ordinance, this type of road classification and connection should be based upon the City’s Transportation Standards; therefore, the text amendment shows this guideline removed because it is already addressed through other City standards.

*Public Comment Received:* Lantian supports the text amendment as drafted.

*Staff Recommendation:* The amendment proposed deleting the text, for reasons described above. The proposed ordinance includes the deletion.

#### **Modifications to the Definition of Demolition**

During previous discussions with the Mayor and Council, it was identified that the City’s definition of demolition needed to be updated. The current definition for demolition is the complete razing of a building or structure. However, this does not address situations where a portion of the structure is retained, however small. This definition is important because the code requires an Evaluation for Historic Significance when demolition, as currently defined, is proposed. Staff recommends that the definition be modified to read that if more than 50



percent of the floor area of a building is removed, it is considered a demolition, and thus, the requirements for an evaluation would be triggered. Staff recommends the following modified definition:

*Demolition* means the complete razing or removal of more than 50 percent of the floor area of a building or structure, or substantial reconstruction that removes more than 50 percent of the building floor area, as defined in Chapter 5.

Staff notes that Montgomery County's definition is like the City's current definition, which means that only a complete razing constitutes demolition.

*Public Comment Received:* Lantian suggests that the City incorporate the County's policy, which requires that a building to be demolished be published for 30 days prior to issuance of a demolition permit. Alternatively, Lantian suggests that owners provide information to the City in support of demolition from a qualified source in historic preservation.

*Staff Recommendation:* The City's current process regarding redevelopment allows for review of potential significance for designation to occur early in the review process, for buildings proposed to be demolished, via staff review and evaluation of the required Natural Resources Inventory. Staff finds that the 50% threshold would be effective in closing the loophole that exists for both residential and nonresidential projects, and the proposed ordinance retains the text changes as originally proposed.

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## **Mayor and Council History**

The Mayor and Council authorized the filing of this application on April 12, 2021. A public hearing was conducted on June 21, 2021. Two speakers addressed the Mayor and Council at the public hearing: Barbara Sears and Bob Elliott, both representing Lantian. They also submitted a letter into the public record (See attachment). The Mayor and Council held a Discussion and Instructions to Staff at the July 12, 2021 Mayor and Council meeting.

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## **Public Notification and Engagement**

This public hearing was advertised in the Washington Post on June 5 and June 12, 2021. It was posted to the City of Rockville's website, the City of Rockville Nextdoor account, and the cable channel 11 bulletin board. It was also sent to Community Homeowner and Civic Associations.

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## **Boards and Commissions Review**

The application was referred to the Planning Commission for a recommendation in advance of the Mayor and Council's public hearing. The Planning Commission considered the application at its May 14th and May 28th meetings. At the May 14th briefing, the Commission asked for more information on the research and development parking requirements in the County, as well as the definition of demolition found in other jurisdictions. At the May 28th meeting, the Commission was satisfied with the responses provided and unanimously recommended approval of all aspects of the text amendment. See attached memo at Attachment G.

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## Next Steps

If the attached ordinance is supported, the Mayor and Council can introduce the ordinance, waive the lay-over period, and vote to adopt it. Upon adoption, it will become effective immediately.

## Attachments

- Attachment 14.a: Draft ordinance TXT2021-00260 (PDF)
- Attachment 14.b: Redlined Text Amendment TXT2021-00260 (PDF)
- Attachment 14.c: Text Amendment as Authorized (PDF)
- Attachment 14.d: Impacted Properties of Prosepective TXT for Site Plan Amendments (PDF)
- Attachment 14.e: Testimony from Lantian (PDF)
- Attachment 14.f: Letter of Support from REDI (PDF)
- Attachment 14.g: PC Recommendation TXT2021-00260 Final (PDF)



Rob DiSpirito, City Manager

9/8/2021

Ordinance No. \_\_\_\_

**ORDINANCE:**

To grant Text Amendment Application No. TXT2021-00260, as amended, Mayor and Council of Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2021-00260 for the purpose of amending Chapter 25 of the Rockville City Code, “Zoning,” so as to revise Chapter 25 for the purpose of amending Sections 25.01, 25.03.02, 25.04.04, 25.05.07, 25.07, 25.13.03, 25.13.06, and 25.16.03 to modify the following: requirements for Project Plans, roadway classifications in mixed use zones, minor and major site plan amendments, and the definition of demolition; allow for development approval abandonment; and add research and development use as a permitted use in certain zones, including an associated parking standard; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meetings of May 8 and May 22, 2021, and recommended approval of the proposed amendment to the Mayor and Council, with certain comments; and

WHEREAS, pursuant to the Land Use Article of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by virtually by the Mayor and Council via WebEx on June 21, 2021, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on June 21, 2021, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council, having considered the text amendment application and the entire file pertaining thereto, said Mayor and Council have decided that the granting of

Ordinance No. \_\_\_\_\_

-2-

this application, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF  
ROCKVILLE, MARYLAND, as follows:

Amend Article 1, “General Information” as follows:

Sec. 25.01.10 – Abandonment of development approval.

The owner or owners of property subject to a valid and approved project plan, site plan, or special exception may seek to abandon such approval by filing a letter of abandonment with the Chief of Zoning. A letter of abandonment must be signed by all owners of property subject to the approval. An approval may only be abandoned if no new additional uses exist that are subject to the approval and no construction has commenced under the approval. Upon receipt of a letter of abandonment of an eligible approval, the Chief of Zoning must confirm the abandonment in writing.

Amend Article 3, “Definitions; Terms of Measurement and Calculations”, as follows:

\* \* \*

**25.03.02 – Words and Terms Defined**

\* \* \*

*Demolition means the: The complete razing or removal of more than 50 percent of the floor area of a building or structure, or substantial reconstruction that removes more than 50 percent of the building floor area, as defined in Chapter 5.*

\* \* \*

Life Science means the research, development, and manufacturing activities in one or more of the following scientific fields: biology, biophysics, biochemistry, bioelectronics, biotechnology, biomedical engineering, bioinformatics, medicine, immunology, embryology, clinical engineering, diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug production, genetic testing, or gene therapy activities. For a business, institution, or government agency conducting such activities, Life Sciences also includes related activities and supporting services, such as administrative offices, educational facilities, libraries, data services, nanotechnology, informational technology, and robotics.

Research and Development means study, research, or experimentation in one or more scientific fields such as life sciences, biomedical research, communications, chemistry, computer science, electronics, medicine, and physics. Research and Development also includes the development of prototypes and the marketing of resultant products and related

activities and may include the use of administrative offices, educational facilities, libraries, and data services, and the manufacturing, mixing, fermentation, treatment, assembly, packaging, and servicing of products.

\* \* \*

Amend Article 4, “Approving Authorities”, as follows:

\* \* \*

**Sec. 25.04.04. - Historic District Commission.**

a. Established. There is established an Historic District Commission for the City.

b. Powers and duties.

1. Generally. The Historic District Commission has all those powers and duties conferred and imposed upon it by this chapter and the provisions of State law, including but not limited to:

(a) Identifying and recommending to the Mayor and Council properties and/or areas deemed eligible for historic designation due to their historic, archaeological, or architectural significance;

(b) Reviewing applications for certificates of approval for sites, buildings or structures within a historic district zone;

(c) Evaluating eligibility for historic designation of any sites, buildings or structures located outside a historic district zone which are proposed for demolition, as defined in this Chapter, or substantial reconstruction, as defined in Chapter 5;

(d) Providing courtesy review to the Planning Commission and Mayor and Council as requested, for projects within or adjacent to historic resources.

\* \* \*

Amend Article 5, “Application and Notification Generally”

\* \* \*

**Sec. 25.05.07. Amendments to approved development.**

a. *Application required.* Except as otherwise provided, an application to amend any previously approved development must be filed with the Chief of Zoning~~Planning~~ in accordance with the provisions of this article.

b. *Minor amendments to approved development.*



1. Any application for an amendment which does not significantly deviate from the terms and conditions of the original approval and would effectively carry out the intent of the Approving Authority's original approval may be considered and acted upon by the Chief of Zoning Planning under the provisions for a level 1 site plan as set forth in section 25.07.04.
    - (a) Such application may be approved if it results in a minimal effect on the overall design, layout, quality, or intent of the plan and is limited to minor adjustments to site engineering, parking or loading areas, landscaping, sidewalks, recreational facilities, recreational areas, public use space, or open area in a manner that does not alter basic elements of the site plan nor cause a safety hazard. Landscaping maintenance does not require an amendment application under this section. The addition or relocation of minor appurtenances such as, but not limited to, bicycle racks, seating benches, ~~and pergolas, emergency generators, transformers,~~ refrigeration equipment, trash enclosures, sidewalks and small storage sheds, does not require an amendment application, but must not alter the basic elements of the site plan nor cause a safety hazard.
  2. ~~An amendment~~ Modifications that results in a reduction of floor area or other development intensity may be approved ~~by the Chief of Planning as a minor amendment.~~
  32. A change in the types of uses on the site that is in conformance with the findings of the initial approval and does not increase the parking requirement does not require approval of may also be approved as a minor amendment.
  43. Minor amendments ~~changes~~ are not subject to the provisions for pre-application staff meetings, area meetings, and the notice provisions of Section 25.05.03 or Article 7.
  54. Where the Chief of Zoning Planning determines that the proposed amendment change is not minor, it is classified as a major amendment change and the application is reviewed and acted on by referred to the Approving Authority as an amendment to the original development approval for review.
  65. Implementation period. The approval of a minor amendment is subject to the implementation provisions of Section 25.07.06.
- c. Minor amendments for commercial redevelopment.
1. To encourage and expedite the re-use and redevelopment of existing commercial structures subject to approved project plans or site plans, or within a Planned Development, the Chief of Zoning may accept an application for a minor amendment for commercial redevelopment under the provisions for a minor amendment to approved development in Section 25.05.07.b above, subject to the following requirements.
    - (a) The property must be in the I-L, MXTD, MXCD, or MXE zone and must be subject to a valid and approved project plan, site plan or use permit or the equivalent development approval.
    - (b) The limits of disturbance of the amendment must be at least 300 feet from the nearest single-family detached or attached residential use, as measured from the nearest property line. This requirement does not apply if a transportation right-of-

way with a width greater than 100 feet or any adjacent parcel of land intended to provide a buffer or open space is located between the residential use and the proposed improvement.

- (c) The property must not be in a historic district.
- (d) The application may only include commercial, office, or industrial uses.
- (e) The application may include new buildings or building additions, subject to the limitations below.

2. The Chief of Zoning may approve a minor amendment for commercial redevelopment if the application meets the project plan or site plan approval findings in Section 25.07.01 as appropriate; the requirements of subsection c.1, above; and the following additional findings:

- (a) For amendments to a site plan, the application does not result in a comprehensive change to more than twenty (20) percent of the site plan area, or otherwise change the essential character and impact of the development.
- (b) The application does not generate more than twenty-nine (29) additional peak hour trips.
- (c) The application does not expand any existing zoning nonconformity.
- (d) For amendments to a project plan or planned development, the amendment will not cause the following:
  - 1. An increase in overall project density;
  - 2. A change in permitted uses or mix of uses; and
  - 3. A deviation from any of the required conditions.

de. Major amendments to approved development.

- 1. Where the Chief of ~~Zoning~~Planning determines that a requested change is too significant to be a minor change but is not so substantial as to require an entirely new application for approval, the requested change must be reviewed and approved by the original Approving Authority as an amendment to the original development approval. Major amendments may include:
  - (a) An increase in the height of any building;
  - (b) An increase in the floor area of any non-residential portion of a building;
  - (c) An increase in the number of dwelling units; or
  - (d) Any other significant change to the site that results in an increase in the parking requirement and requires the construction of additional parking spaces.
- 2. An application for a major amendment is subject to the notice and procedural requirements as set forth in Section 25.07.03. The application will be processed under the procedures for either a level 1 or a level 2 site plan, depending on the initial Approving Authority.
- 3. Reserved.

4. Implementation period. The approval of a major amendment is subject to the implementation provisions of section 25.07.06.
- ed. *Substantial changes requiring a new application.* Where, in the opinion of the Chief of ~~Zoning~~Planning, the requested change to an approved development is so extensive as to amount to a comprehensive change to more than fifty (50) percent of the project area or to otherwise change the essential character and impact of the development, such change may not be made by way of an amendment to the original approval, but rather requires the filing of an entirely new application for approval.

Amend Article 7, “Procedures for Site Plans and Project Plans, Special Exceptions, and Other Permits”, as follows:

**Sec. 25.07.02, Application Procedure for Site Plans, Project Plans, and Special Exceptions**

\* \* \*

b. Application Procedure, in General –

\* \* \*

4. For any Level 2 site plan application that includes property that is the subject of a pending Annexation petition, the application must be processed as a Project Plan application subject to Mayor and Council review and approval.

\* \* \*

**Sec. 25.07.07, Project Plan Review**

An application for a site plan review with 16 or more points, as determined in Section 25.07.02.b above, an application qualifying as a Project Plan under Section 25.07.02.b.4 above, or an application for a Champion Project as defined in Article 3, is processed as a Project Plan review and is subject to the following provisions:

\* \* \*

**Sec. 25.07.16 – Alternate site plan approval.**

An applicant for development on property subject to an approved project plan may elect to pursue approval of an alternate site plan for development inconsistent with the approved project plan subject to the following:

- a. The development proposed by the alternate site plan application must qualify as a Level 1 or Level 2 site plan under Section 25.07.02.b.
- b. An alternate site plan application must be made or authorized by all owners of property subject to the approved project plan.

- c. No site plans implementing the approved project plan may be valid at the time the alternate site plan application is filed.
- d. Upon the filing of an application for an alternate site plan, any pending site plan applications implementing the approved project plan are deemed withdrawn, and no site plan applications implementing the approved project plan may be filed.
- e. Approval of an alternate site plan must be made under Section 25.07.01.3(a).
- f. Upon approval of an alternate site plan, no site plan implementing the approved project plan may be approved unless the project plan is amended to be consistent with the alternate site plan. If the Mayor and Council does not approve such an amendment to the project plan within two years of approval of the alternate site plan, the project plan is deemed abandoned. The Mayor and Council may grant no more than two six-month extensions to this timeline.

\* \* \*

Amend Article 12, "Industrial Zones"

\* \* \*

**Sec. 25.12.03, Land Use Tables**

\* \* \*

e. Commercial, office and industrial uses (con't.)	Uses	Zones		Conditional Requirements or related regulations
		Light Industrial I-L	Heavy Industrial I-H	
	Office Uses:			
	Duplicating service	P	N	
	Office	C	N	Conditional use limited to 25% of the gross floor area of a building
	Medical or dental laboratory	P	N	
	<u>Research and Development</u>	<u>P</u>	<u>N</u>	

\* \* \*

Amend Article 13, "Mixed Use Zones", as follows:

\* \* \*

**Sec. 25.13.03, Land Use Tables**

\* \* \*

	Zones								
	Commercial and Office Uses	Mixed-use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Corridor transition (MXCT)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed Use Commercial (MXC)	Mixed-Use Transition (MXT)
	* * *								
	<u>Research and Development</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>
	* * *								

**Sec. 25.13.06, Additional Design Guidelines**

\* \* \*

**Sec. 25.13.06.c, Site Design and Relationship to Surrounding Community**

~~1. Vehicular Access — In the MXTD, MXCD, and MXE zones, each site must provide safety and protection to adjacent residential uses by having motor vehicle access only from an arterial, major, or business district road as designated in the Plan.~~

12. Buffers....

Amend Article 16, Parking and Loading

**Sec. 25.16.03 – Number of Spaces Required**

		Auto Parking Spaces		Bicycle Parking Spaces			
Use Category	Use	Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	Additional Requirements
Commercial (cont.)	***						
	<u>Research and Development</u>	<u>Per 1,000 gross SF</u>	<u>1</u>	<u>Square feet of gross floor area</u>	<u>2 per 40,000 SF</u>	<u>2 per 10,000 SF</u>	

Ordinance No. \_\_\_\_\_

-9-

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\* \* \*

NOTE: ~~Strikethroughs~~ indicate material deleted  
Underlining indicates material added  
Asterisks \* \* \* indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of September 13, 2021.

\_\_\_\_\_  
Sara Taylor-Ferrell, City Clerk/Director of Council Operations



Ordinance No. \_\_\_\_\_

September 13, 2021

ATTACHMENT TO APPLICATION  
TO THE CITY OF ROCKVILLE FOR A  
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strike throughs~~ indicate text to be deleted; \* \* \* indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 1, “General Information” as follows:

Sec. 25.01.10 – Abandonment of development approval.

The owner or owners of property subject to a valid and approved project plan, site plan, or special exception may seek to abandon such approval by filing a letter of abandonment with the Chief of Zoning. A letter of abandonment must ~~be~~include an affidavit signed by all owners of property owners stating that all parties property owners having a legal interest in the property subject to the approval consent to the abandonment. An approval may only be abandoned if no new additional uses exist that are subject to the approval and no building permits have been issued implementing the approval construction has commenced under the approval. Upon receipt of a letter of abandonment of an eligible approval, the Chief of Zoning must confirm the abandonment in writing.

Amend Article 3, “Definitions; Terms of Measurement and Calculations”, as follows:

\* \* \*

**25.03.02 – Words and Terms Defined**

\* \* \*

*Demolition means the: The complete razing or removal of more than 50 percent of the floor area of a building or structure, or substantial reconstruction that removes more than 50 percent of the building floor area, as defined in Chapter 5.*

\* \* \*

Life Science means the research, development, and manufacturing activities in one or more of the following scientific fields: biology, biophysics, biochemistry, bioelectronics, biotechnology, biomedical engineering, bioinformatics, medicine, immunology, embryology, clinical engineering, diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug production, genetic testing, or gene therapy activities. For a business, institution, or government agency conducting such activities, Life Sciences also includes related activities and supporting services, such as administrative offices, educational facilities, libraries, data services, nanotechnology, informational technology, and robotics.

Research and Development means study, research, or experimentation in one or more scientific fields such as life sciences, biomedical research, communications, chemistry, computer science, electronics, medicine, and physics. Research and Development also includes the development of prototypes and the marketing of resultant products and related activities and may include the use of administrative offices, educational facilities, libraries, and data services, and the manufacturing, mixing, fermentation, treatment, assembly, packaging, and servicing of products.

\* \* \*

Amend Article 4, “Approving Authorities”, as follows:

\* \* \*

#### **Sec. 25.04.04. - Historic District Commission.**

a. Established. There is established an Historic District Commission for the City.

b. Powers and duties.

1. Generally. The Historic District Commission has all those powers and duties conferred and imposed upon it by this chapter and the provisions of State law, including but not limited to:

(a) Identifying and recommending to the Mayor and Council properties and/or areas deemed eligible for historic designation due to their historic, archaeological, or architectural significance;

(b) Reviewing applications for certificates of approval for sites, buildings or structures within a historic district zone;

(c) Evaluating eligibility for historic designation of any sites, buildings or structures located outside a historic district zone which are proposed for demolition, as defined in this Chapter, or substantial reconstruction, as defined in Chapter 5;

(d) Providing courtesy review to the Planning Commission and Mayor and Council as requested, for projects within or adjacent to historic resources.

\* \* \*

Amend Article 5, “Application and Notification Generally”

\* \* \*

**Sec. 25.05.07. Amendments to approved development.**

- a. *Application required.* Except as otherwise provided, an application to amend any previously approved development must be filed with the Chief of Zoning Planning in accordance with the provisions of this article.
- b. *Minor amendments to approved development.*
  1. Any application for an amendment which does not significantly deviate from the terms and conditions of the original approval and would effectively carry out the intent of the Approving Authority's original approval may be considered and acted upon by the Chief of Zoning Planning under the provisions for a level 1 site plan as set forth in section 25.07.04.
    - (a) Such application may be approved if it results in a minimal effect on the overall design, layout, quality, or intent of the plan and is limited to minor adjustments to site engineering, parking or loading areas, landscaping, sidewalks, recreational facilities, recreational areas, public use space, or open area in a manner that does not alter basic elements of the site plan nor cause a safety hazard. Landscaping maintenance does not require an amendment application under this section. The addition or relocation of minor appurtenances such as, but not limited to, bicycle racks, seating benches, ~~and pergolas, emergency generators, transformers,~~ refrigeration equipment, trash enclosures, sidewalks and small storage sheds, does not require an amendment application, but must not alter the basic elements of the site plan nor cause a safety hazard.
  2. An amendment~~Modifications~~ that results in a reduction of floor area or other development intensity may be approved ~~by the Chief of Planning as a minor amendment.~~
  32. A change in the types of uses on the site that is in conformance with the findings of the initial approval and does not increase the parking requirement does not require approval of~~may also be approved as~~ a minor amendment.
  43. Minor amendments~~changes~~ are not subject to the provisions for pre-application staff meetings, area meetings, and the notice provisions of section 25.05.03 or article 7.
  54. Where the Chief of Zoning Planning determines that the proposed amendment change is not minor, it is classified as a major amendment change and the application is reviewed and acted on by ~~referred to~~ the Approving Authority as an amendment to the original development approval for review.
  65. Implementation period. The approval of a minor amendment is subject to the implementation provisions of section 25.07.06.
- c. *Minor amendments for commercial redevelopment.*

1. To encourage and expedite the re-use and redevelopment of existing commercial structures subject to approved project plans or site plans, or within a Planned Development, the Chief of Zoning may accept an application for a minor amendment for commercial redevelopment under the provisions for a minor amendment to approved development in Section 25.05.07.b above, level 1 site plan as set forth in section 25.07.04., subject to the following requirements.
    - (a) The property must be in the I-L, MXTD, MXCD, or MXE zone and must be subject to a valid and approved project plan, site plan or use permit or the equivalent development approval.
    - (b) The limits of disturbance of the amendment property must be at least 300 feet from the nearest single-family detached or attached residential use, as measured from the nearest property line. This requirement does not apply if a transportation right-of-way with a width greater than 100 feet or any adjacent parcel of land intended to provide a buffer or open space is located between the residential use and the proposed improvement.
    - (c) The property must not be in a historic district.
    - (d) The application may only include commercial, office, or industrial uses.
    - (e) The application may ~~must not~~ include any new buildings or building additions, subject to the limitations below.
  2. The Chief of Zoning may approve a minor amendment site plan for commercial redevelopment if the application meets the project plan or site plan approval findings in Section 25.07.01.a.3(a) as appropriate; the requirements of subsection c.1, above; and the following additional findings:
    - (a) For amendments to a site plan, the application does not result in a comprehensive change to more than twenty (20) percent of the site plan or project plan area, or otherwise change the essential character and impact of the development.
    - (b) The application does not generate more than twenty-nine (29) additional peak hour trips.
    - (c) The application does not expand any existing zoning nonconformity.
    - (d) For amendments to a project plan or planned development, the amendment will not cause the following:
      1. An increase in overall project density;
      2. A change in permitted uses or mix of uses; and
      3. A deviation from any of the required conditions.
- de. *Major amendments to approved development.*
1. Where the Chief of ~~Zoning~~Planning determines that a requested change is too significant to be a minor change but is not so substantial as to require an entirely new application for approval, the requested change must be reviewed and approved by the original Approving Authority as an amendment to the original development approval. Major amendments may include:
    - (a) An increase in the height of any building;
    - (b) An increase in the floor area of any non-residential portion of a building;

- (c) An increase in the number of dwelling units; or
  - (d) Any other significant change to the site that results in an increase in the parking requirement and requires the construction of additional parking spaces.
2. An application for a major amendment is subject to the notice and procedural requirements as set forth in section 25.07.03. The application will be processed under the procedures for either a level 1 or a level 2 site plan, depending on the initial Approving Authority.
  3. Reserved.
  4. Implementation period. The approval of a major amendment is subject to the implementation provisions of section 25.07.06.
- ed. *Substantial changes requiring a new application.* Where, in the opinion of the Chief of ~~Zoning~~~~Planning~~, the requested change to an approved development is so extensive as to amount to a comprehensive change to more than fifty (50) percent of the project area or to otherwise change the essential character and impact of the development, such change may not be made by way of an amendment to the original approval, but rather requires the filing of an entirely new application for approval.

Amend Article 7, “Procedures for Site Plans and Project Plans, Special Exceptions, and Other Permits”, as follows:

**Sec. 25.07.02, Application Procedure for Site Plans, Project Plans, and Special Exceptions**

\* \* \*

**b. Application Procedure, in General –**

\* \* \*

4. For any **Level 2 site plan** application that includes property that is the subject of a pending Annexation petition, the application must be processed as a Project Plan application subject to Mayor and Council review and approval.

\* \* \*

**Sec. 25.07.07, Project Plan Review**

An application for a site plan review with 16 or more points, as determined in Section 25.07.02.b above, an application qualifying as a Project Plan under Section 25.07.02.b.4 above, or an application for a Champion Project as defined in Article 3, is processed as a Project Plan review and is subject to the following provisions:

\* \* \*

**Sec. 25.07.16 – Alternate site plan approval.**



An applicant for development on property subject to an approved project plan may elect to pursue approval of an alternate site plan for development inconsistent with the approved project plan subject to the following:

a. The development proposed by the alternate site plan application must qualify as a Level 1 or Level 2 site plan under Section 25.07.02.b.

b. An alternate site plan application must be made or authorized by all ~~property owners or other parties subject to or having a legal interest in and the applicant for of property subject to the~~ approved project plan.

c. No site plans implementing the approved project plan may be valid at the time the alternate site plan application is filed.

d. Upon the filing of an application for an alternate site plan, any pending site plan applications implementing the approved project plan are deemed withdrawn, and no site plan applications implementing the approved project plan may be filed.

e. Approval of an alternate site plan must be made under Section 25.07.01.3(a).

f. Upon approval of an alternate site plan, no site plan implementing the approved project plan may be approved unless the project plan is amended to be consistent with the alternate site plan. If the Mayor and Council does not approve such an amendment to the project plan within ~~two years eighteen (18) months~~ of approval of the alternate site plan, the project plan is deemed abandoned. ~~The Mayor and Council may grant no more than two six-month extensions to this timeline.~~

Amend Article 12, "Industrial Zones" as follows:

\* \* \*

### **Sec. 25.12.03, Land Use Tables**

\* \* \*

<b>e. Commercial, office and industrial uses (con't.)</b>	<b>Uses</b>	<b>Zones</b>		<b>Conditional Requirements or related regulations</b>
		<b>Light Industrial I-L</b>	<b>Heavy Industrial I-H</b>	
	Office Uses:			
	Duplicating service	P	N	
	Office	C	N	Conditional use limited to 25% of the gross floor area of a building
	Medical or dental laboratory	P	N	
	<u>Research and Development</u>	<u>P</u>	<u>N</u>	

\* \* \*

Amend Article 13, “Mixed Use Zones”, as follows:

\* \* \*

### Sec. 25.13.03, Land Use Tables

\* \* \*

Zones								
<u>Commercial and Office Uses</u>	Mixed-use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Corridor transition (MXCT)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed Use Commercial (MXC)	Mixed-Use Transition (MXT)
* * *								
<u>Research and Development</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>
* * *								

### Sec. 25.13.06, Additional Design Guidelines

\* \* \*

### Sec. 25.13.06.c, Site Design and Relationship to Surrounding Community

~~1. Vehicular Access~~ In the MXTD, MXCD, and MXE zones, each site must provide safety and protection to adjacent residential uses by having motor vehicle access only from an arterial, major, or business district road as designated in the Plan.

~~12. Buffers....~~

Amend Article 16, Parking and Loading

### Sec. 25.16.03 – Number of Spaces Required

Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
Commercial (cont.)	***						
	<u>Research and Development</u>	<u>Per 1,000 gross SF</u>	<u>1</u>	<u>Square feet of gross floor area</u>	<u>2 per 40,000 SF</u>	<u>2 per 10,000 SF</u>	

	***						
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\* \* \*

April 12, 2021

ATTACHMENT TO APPLICATION  
TO THE CITY OF ROCKVILLE FOR A  
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strike throughs~~ indicate text to be deleted; \* \* \* indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

Amend Article 1, “General Information” as follows:

Sec. 25.01.10 – Abandonment of development approval,

The owner or owners of property subject to a valid and approved project plan, site plan, or special exception may seek to abandon such approval by filing a letter of abandonment with the Chief of Zoning. A letter of abandonment must include an affidavit signed by all property owners stating that all parties having a legal interest in the property subject to the approval consent to the abandonment. An approval may only be abandoned if no uses exist that are subject to the approval and no building permits have been issued implementing the approval. Upon receipt of a letter of abandonment of an eligible approval, the Chief of Zoning must confirm the abandonment in writing.

Amend Article 3, “Definitions; Terms of Measurement and Calculations”, as follows:

\* \* \*

**25.03.02 – Words and Terms Defined**

\* \* \*

*Demolition means the: The complete razing or removal of more than 50 percent of the floor area of a building or structure, or substantial reconstruction that removes more than 50 percent of the building floor area, as defined in Chapter 5.*

\* \* \*

Research and Development means study, research, or experimentation in one or more scientific fields such as life sciences, biomedical research, communications, chemistry,

computer science, electronics, medicine, and physics. Research and Development also includes the development of prototypes and the marketing of resultant products and related activities and may include the use of administrative offices, educational facilities, libraries, and data services, and the manufacturing, mixing, fermentation, treatment, assembly, packaging, and servicing of products.

\* \* \*

Amend Article 4, “Approving Authorities”, as follows:

\* \* \*

**Sec. 25.04.04. - Historic District Commission.**

a. Established. There is established an Historic District Commission for the City.

b. Powers and duties.

1. Generally. The Historic District Commission has all those powers and duties conferred and imposed upon it by this chapter and the provisions of State law, including but not limited to:

(a) Identifying and recommending to the Mayor and Council properties and/or areas deemed eligible for historic designation due to their historic, archaeological, or architectural significance;

(b) Reviewing applications for certificates of approval for sites, buildings or structures within a historic district zone;

(c) Evaluating eligibility for historic designation of any sites, buildings or structures located outside a historic district zone which are proposed for demolition, as defined in this Chapter, or substantial reconstruction, as defined in Chapter 5;

(d) Providing courtesy review to the Planning Commission and Mayor and Council as requested, for projects within or adjacent to historic resources.

\* \* \*

Amend Article 5, “Application and Notification Generally”

\* \* \*

**Sec. 25.05.07. Amendments to approved development.**

a. *Application required.* Except as otherwise provided, an application to amend any previously approved development must be filed with the Chief of Zoning Planning in accordance with the provisions of this article.

b. *Minor amendments to approved development.*

1. Any application for an amendment which does not significantly deviate from the terms and conditions of the original approval and would effectively carry out the intent of the Approving Authority's original approval may be considered and acted upon by the Chief of Zoning Planning under the provisions for a level 1 site plan as set forth in section 25.07.04.
  - (a) Such application may be approved if it results in a minimal effect on the overall design, layout, quality, or intent of the plan and is limited to minor adjustments to site engineering, parking or loading areas, landscaping, sidewalks, recreational facilities, recreational areas, public use space, or open area in a manner that does not alter basic elements of the site plan nor cause a safety hazard. Landscaping maintenance does not require an amendment application under this section. The addition or relocation of minor appurtenances such as, but not limited to, bicycle racks, seating benches, ~~and~~ pergolas, emergency generators, transformers, refrigeration equipment, trash enclosures, and small storage sheds, does not require an amendment application, but must not alter the basic elements of the site plan nor cause a safety hazard.
2. An amendment~~Modifications~~ that results in a reduction of floor area or other development intensity may be approved ~~by the Chief of Planning as a minor amendment.~~
32. A change in the types of uses on the site that is in conformance with the findings of the initial approval and does not increase the parking requirement may also be approved as a minor amendment.
43. Minor amendments ~~changes~~ are not subject to the provisions for pre-application staff meetings, area meetings, and the notice provisions of section 25.05.03 or article 7.
54. Where the Chief of Zoning Planning determines that the proposed amendment change is not minor, it is classified as a major amendment change and the application is reviewed and acted on by referred to the Approving Authority as an amendment to the original development approval for review.
65. Implementation period. The approval of a minor amendment is subject to the implementation provisions of section 25.07.06.
- c. Minor amendments for commercial redevelopment.
  1. To encourage and expedite the re-use and redevelopment of existing commercial structures subject to approved site plans, the Chief of Zoning may accept an application for a minor amendment for commercial redevelopment under the provisions for a level 1 site plan as set forth in section 25.07.04., subject to the following requirements.
    - (a) The property must be in the I-L, MXTD, MXCD, or MXE zone and must be subject to a valid and approved site plan.
    - (b) The property must be at least 300 feet from the nearest single-family attached residential use, as measured from the nearest property line.
    - (c) The property must not be in a historic district.
    - (d) The application may only include commercial, office, or industrial uses.



- (e) The application must not include any new buildings.
2. The Chief of Zoning may approve a minor site plan for commercial redevelopment if the application meets the site plan approval findings in Section 25.07.01.a.3(a); the requirements of subsection c.1, above; and the following additional findings:
- (a) The application does not result in a comprehensive change to more than twenty (20) percent of the project area or otherwise change the essential character and impact of the development.
- (b) The application does not generate more than twenty-nine (29) additional peak hour trips.
- (c) The application does not expand any existing zoning nonconformity.
- de. Major amendments to approved development.
1. Where the Chief of ZoningPlanning determines that a requested change is too significant to be a minor change but is not so substantial as to require an entirely new application for approval, the requested change must be reviewed and approved by the original Approving Authority as an amendment to the original development approval. Major amendments may include:
    - (a) An increase in the height of any building;
    - (b) An increase in the floor area of any non-residential portion of a building;
    - (c) An increase in the number of dwelling units; or
    - (d) Any other significant change to the site that results in an increase in the parking requirement and requires the construction of additional parking spaces.
  2. An application for a major amendment is subject to the notice and procedural requirements as set forth in section 25.07.03. The application will be processed under the procedures for either a level 1 or a level 2 site plan, depending on the initial Approving Authority.
  3. Reserved.
  4. Implementation period. The approval of a major amendment is subject to the implementation provisions of section 25.07.06.
- ed. Substantial changes requiring a new application. Where, in the opinion of the Chief of ZoningPlanning, the requested change to an approved development is so extensive as to amount to a comprehensive change to more than fifty (50) percent of the project area or to otherwise change the essential character and impact of the development, such change may not be made by way of an amendment to the original approval, but rather requires the filing of an entirely new application for approval.

Amend Article 7, “Procedures for Site Plans and Project Plans, Special Exceptions, and Other Permits”, as follows:

**Sec. 25.07.02, Application Procedure for Site Plans, Project Plans, and Special Exceptions**

\* \* \*

b. Application Procedure, in General –

\* \* \*

4. For any application that includes property that is the subject of a pending Annexation petition, the application must be processed as a Project Plan application subject to Mayor and Council review and approval.

\* \* \*

**Sec. 25.07.07, Project Plan Review**

An application for a site plan review with 16 or more points, as determined in Section 25.07.02.b above, an application qualifying as a Project Plan under Section 25.07.02.b.4 above, or an application for a Champion Project as defined in Article 3, is processed as a Project Plan review and is subject to the following provisions:

\* \* \*

**Sec. 25.07.16 – Alternate site plan approval.**

An applicant for development on property subject to an approved project plan may elect to pursue approval of an alternate site plan for development inconsistent with the approved project plan subject to the following:

a. The development proposed by the alternate site plan application must qualify as a Level 1 or Level 2 site plan under Section 25.07.02.b.

b. An alternate site plan application must be made or authorized by all property owners or other parties subject to or having a legal interest in the approved project plan.

c. No site plans implementing the approved project plan may be valid at the time the alternate site plan application is filed.

d. Upon the filing of an application for an alternate site plan, any pending site plan applications implementing the approved project plan are deemed withdrawn, and no site plan applications implementing the approved project plan may be filed.

e. Approval of an alternate site plan must be made under Section 25.07.01.3(a).

f. Upon approval of an alternate site plan, no site plan implementing the approved project plan may be approved unless the project plan is amended to be consistent with the alternate site plan. If the Mayor and Council does not approve such an amendment to the project plan within eighteen (18) months of approval of the alternate site plan, the project plan is deemed abandoned.

\* \* \*

Amend Article 13, “Mixed Use Zones”, as follows:

\* \* \*

### Sec. 25.13.03, Land Use Tables

\* \* \*

Zones								
Uses	Mixed-use Transit District (MXTD)	Mixed-Use Corridor District (MXCD)	Mixed-Use Employment (MXE)	Mixed-Use Business (MXB)	Mixed-Use Corridor transition (MXCT)	Mixed-Use Neighborhood Commercial (MXNC)	Mixed Use Commercial (MXC)	Mixed-Use Transition (MXT)
* * *								
<u>Research and Development</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>N</u>	<u>N</u>	<u>N</u>
* * *								

### Sec. 25.13.06, Additional Design Guidelines

\* \* \*

#### Sec. 25.13.06.c, Site Design and Relationship to Surrounding Community

~~1. Vehicular Access—In the MXTD, MXCD, and MXE zones, each site must provide safety and protection to adjacent residential uses by having motor vehicle access only from an arterial, major, or business district road as designated in the Plan.~~

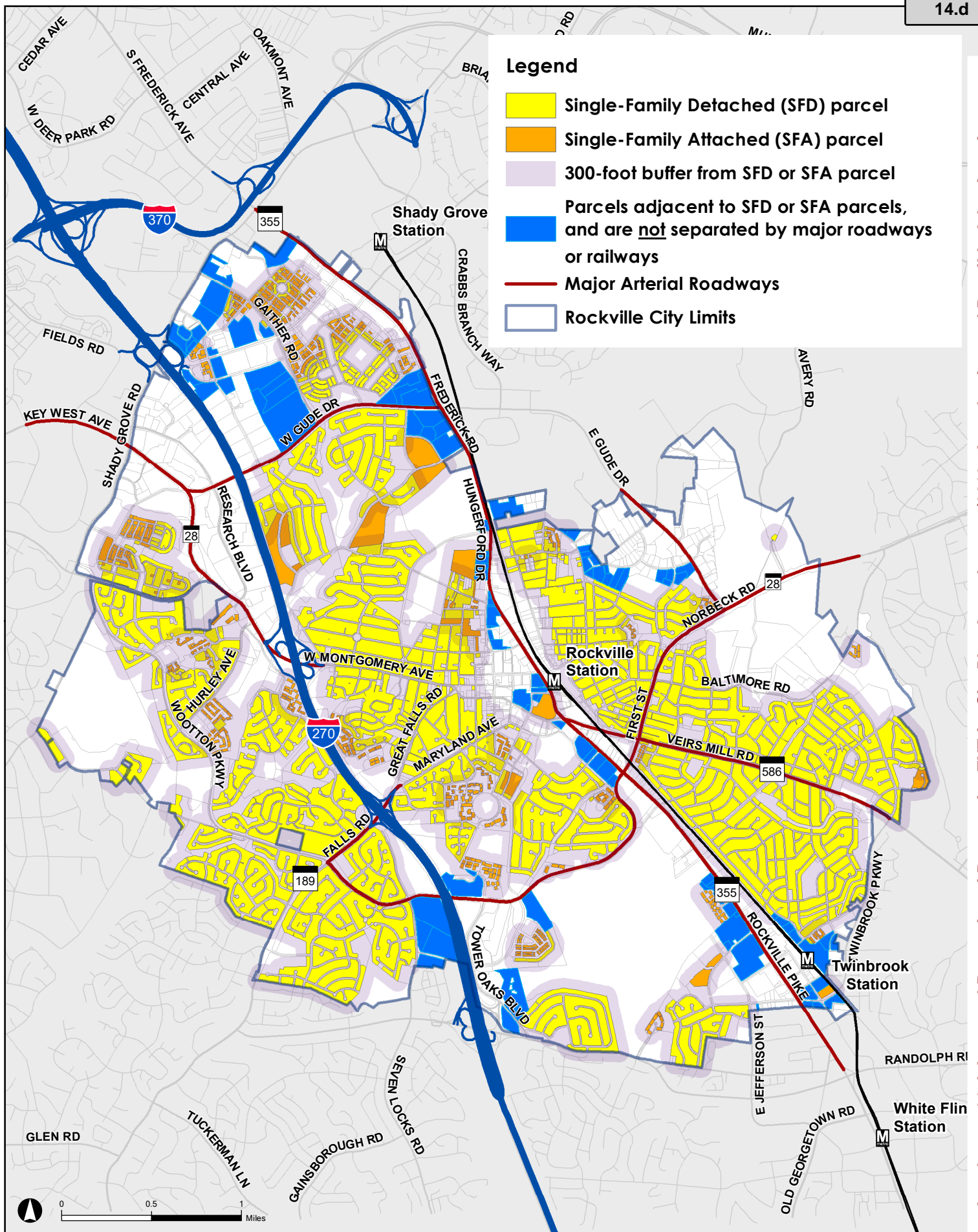
~~12. Buffers....~~

Amend Article 16, Parking and Loading

### Sec. 25.16.03 – Number of Spaces Required

Use Category	Use	Auto Parking Spaces		Bicycle Parking Spaces			Additional Requirements
		Unit Measure	Base Number Required	Unit Measure	Short Term Space	Long Term Space	
Commercial (cont.)	***						
	<u>Research and Development</u>	<u>Per 1,000 gross SF</u>	<u>1</u>	<u>Square feet of gross floor area</u>	<u>2 per 40,000 SF</u>	<u>2 per 10,000 SF</u>	
	***						

\* \* \*







June 21, 2021

**Barbara A. Sears**  
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(301) 517-4812

**Phillip A. Hummel**  
phummel@milesstockbridge.com  
(301) 517-4814

Mayor Bridget Donnell Newton  
and City Councilmembers  
City of Rockville  
Mayor and Council Chambers  
111 Maryland Avenue  
Rockville, MD 20850

Re: Zoning Text Amendment TXT2021-00260 – Testimony of Lantian Development

Dear Mayor Newton and City Councilmembers:

We are submitting this written testimony regarding Zoning Text Amendment TXT2021-00260 (the “ZTA”) on behalf of our client, Lantian Development (“Lantian”). Lantian is the owner of 2 and 4 Choke Cherry Road, 2092 – 2098 Gaither Road, and 15825 Shady Grove Road in the City of Rockville (the “City”). Lantian appreciates the diligent work of the Mayor and Council, the Planning Commission, and City staff on the ZTA to date. Lantian has closely reviewed the ZTA and offers the attached comments and proposed modifications for the Mayor and Council’s consideration. Lantian strongly supports the ZTA’s intent and believes these enclosed comments advance the City’s goals of improving the development review process, enhancing the ability to promote economic growth, and attracting businesses.

We request that this letter be made a part of the public hearing record and look forward to working with the Mayor and Council and City staff during review of the ZTA. Thank you for your consideration of our comments.



Mayor Bridget Donnell Newton  
and City Councilmembers  
June 21, 2021  
Page 2

Very truly yours,

**MILES & STOCKBRIDGE P.C.**

*Barbara A. Sears/kdm*

Barbara A. Sears

*Phillip A. Hummel/kdm*

Phillip A. Hummel

cc: Bob Elliott, Lantian Development  
Jim Wasilak, City of Rockville



## Comments on Zoning Text Amendment TXT2021-00260

### Abandonment of development approval (25.01.10) – New section

- Initially, it does not seem necessary to have a provision in the Zoning Ordinance to abandon a prior approval. This right inherently exists if the owner relinquishes the approval in writing to the City. Further, in justifying the need for a formal abandonment process, it is unclear what staff means by citing the situation where buildings that existed when the new development approval was given, were not “measured during the review of impacts of the new development.” Packet Pg. 18. If the buildings existed when the new development approval was given and the owner decides not to implement the new approval, but rather continue to use the existing buildings, we believe the owner has the right to re-tenant the existing buildings under the prior development approval(s). Under such circumstances, if no changes are made to the prior approval(s), there would be no future impacts that haven’t been accounted for.
- If new Section 25.01.10 is retained, then the letter withdrawing and abandoning the approval should only need to be signed by the owner of record of the subject property and the original applicant for the approval if that applicant still has a legal interest in the property. Requiring an affidavit from the owner(s) stating that all parties having a legal interest in the property subject to the approval consent to the abandonment places an unnecessary burden on the property owner(s). The City should not place itself in the position of being an arbiter of who or what entity may have a legal interest in the subject property and compelling the property owner to obtain consents. A letter requesting abandonment by the owner of record and original applicant (if that applicant still has a legal interest) is all that should be required.
- The second to last sentence reads: “An approval may only be abandoned if no uses exist that are subject to the approval and no building permits have been issued implementing the approval.” This language should be edited to clarify that no “new additional” uses existing that are subject to the development approval to be abandoned, as well as acknowledge that vesting rights in Maryland does not occur until construction actually begins:
  - An approval may only be abandoned if no new additional uses exist that are subject to the approval and no building permits have been issued implementing the approval construction has commenced under the approval.

## **Research and Development (25.03.02) – Words and Terms Defined.- New definitions**

- Definition of “Demolition” – Maintain the definition as is and instead provide for a similar process used in Montgomery County whereby at least 30 days before DPS issues a permit to demolish or remove a building (other than a single-family dwelling) that will be more than 25 years old when it is demolished or removed, DPS must list the address of the property on a properly designated website or other widely available form of electronic notice. See Section 8-27(c) of the Montgomery County Code. Such a process in Rockville could also provide for a commercial property owner to consult with City historic staff prior to applying for a demolition permit, and if appropriate, obtain a report from a qualified professional analyzing potential historic or architectural significance.
- Definition of “Research and Development” – Montgomery County’s Zoning Ordinance also includes a separate “Life Sciences” use, which is defined as “the research, development, and manufacturing activities in one or more of the following scientific fields: biology, biophysics, biochemistry, bioelectronics, biotechnology, biomedical engineering, bioinformatics, medicine, immunology, embryology, clinical engineering, diagnostics, therapeutics, nutraceuticals, pharmacogenomics, drug production, genetic testing, or gene therapy activities. Life Sciences also includes a Hospital and uses accessory to a Hospital, other than medical/dental clinic. For a business, institution, or government agency conducting such activities in a Life Sciences Center, Life Sciences also includes related activities and supporting services, such as administrative offices, educational facilities, libraries, data services, nanotechnology, informational technology, and robotics.” See Section 59.3.5.8.A of the Montgomery County Zoning Ordinance.
- If Rockville’s definition of research and development in Section 25.03.02 is intended to include “life sciences,” it should also incorporate all the uses included in Montgomery County’s definition of “Life Sciences,” with the possible exception of hospitals and uses accessory to a hospital. This is consistent with staff’s intent for the City to “signal that it is welcoming to this use and would make it clear to property and business owners alike that their uses are permitted in Rockville.” Packet Pg. 21.

## **Amendments to approved development (25.05.07) – Minor site plan amendment**

- Existing Section 25.05.07.b.1(b)

- Section 25.05.07.b.1(b) of Rockville's Zoning Ordinance (to be changed to Section 25.05.07.b.2) is proposed to be changed so that an amendment that results in a reduction of floor area or other development intensity may be approved as a minor amendment.
- We would further recommend that this section should also allow minor increases of square footage to be approved under the minor amendment procedure. For example, the City of Gaithersburg's Zoning Ordinance only requires amendments to concept plans, sketch plans, or schematic development plans when nonresidential building floor area increases by more than 10% or 5,000 square feet, whichever is greater or when residential dwelling units increase by more than 10% or five units, whichever is greater. See Section 24-198(c)(1)(ii) of the Gaithersburg Zoning Ordinance.
- This is intended to allow minor amendments that do not meet the standards of the new minor amendments for commercial redevelopment section of 25.05.07.c in the ZTA.
- Existing Section 25.05.07.b.2
  - Section 25.05.07.b.2 of Rockville's Zoning Ordinance (to be changed to Section 25.05.07.b.3) currently provides:

32. A change in the types of uses on the site that is in conformance with the findings of the initial approval and does not increase the parking requirement may also be approved as a minor amendment.

- We would recommend this provision be amended to state that a change in use ***does not*** require a minor amendment. It would appear the change in use is appropriately handled through the existing procedures for the issuance of a new occupancy permit and should not require a minor amendment. See Section 25.07.11 of the Zoning Ordinance.
- New Section 25.05.07.c – Minor amendments for commercial redevelopment
  - Section 25.05.07.c.1 - This language only references “valid and approved site plans.” This language should be modified to include valid use permits and project plans as well.
  - Section 25.05.07.c.1(b) - We do not believe that Lantian's property is at least 300 feet from the nearest single-family attached residential use, as measured from the nearest property line. This would exclude Lantian's property from obtaining a minor amendment for commercial redevelopment, and contradict the express intent of the pending ZTA.

- We would recommend modifying this language to expand the eligibility for obtaining a minor amendment for commercial development. This should be achieved by eliminating the 300 foot restriction from this section. With the deletion of the 300 foot restriction, any development application that establishes compliance with the remaining criteria in the ZTA for a minor amendment for commercial development does not threaten the “integrity of [the] residential community” and should be able to be approved by the Chief of Zoning. Packet Pg. 19. Projects that do not comply with the remaining criteria will not be eligible for approval as a minor amendment and require Planning Commission or Mayor and Council review.
- In the alternative, we would recommend:
  - Grandfathering properties from the 300 foot restriction seeking to amend development approvals that were approved prior to the date of ZTA adoption. In such situations, the adjacency is already known and considered in the underlying approval.
  - Exclude application of the 300 foot restriction where the abutting property is zoned or is recommended in a master plan to be zoned with a mixed-use zone or a Planned Development zone. Given the intensity and uses permitted in mixed-use and Planned Development zones, a development application that otherwise meets the minor amendment for commercial redevelopment standards should be eligible for approval by the Chief of Zoning.
- Section 25.05.07.c.1(d) - The proposed language does not seem to track the use categories from the Zoning Ordinance, which are “commercial and office uses” and “industrial and service uses.”
- Section 25.05.07.c.1(e) – The language states the application “must not include any new buildings.” We would recommend that minor amendments for commercial redevelopment allow certain increases of square footage under a certain thresholds. As noted above, the City of Gaithersburg’s Zoning Ordinance only requires amendments to concept plans, sketch plans, or schematic development plans when nonresidential building floor area increases by more than 10% or 5,000 square feet, whichever is greater or when residential dwelling units increase by more than 10% or five units, whichever is greater. See Section 24-198(c)(1)(ii) of the Gaithersburg Zoning Ordinance.
- Section 25.05.07.c.2(a) – This language seems to allow a change to more than 20% of the project area “or otherwise change the essential character

and impact of the development.” This language is vague and should be deleted.

**Application Procedure for Site Plans and Project Plans, Special Exceptions, and Other Permits (25.07.02.b.4) – New Section**

- Although not a Lantian issue, this section would require that when any development application being is being considered **concurrently** with an annexation petition, the development application must be processed as a project plan, regardless of scale or impact. This is burdensome for smaller projects.
- This could be avoided in several ways. For example, a clear density or intensity threshold could be added to state when project plan review is required. Another option would be to use a “courtesy review” process that would allow the Mayor and Council to delegate approval authority to the Planning Commission if appropriate. This is similar to the process in the Gaithersburg Zoning Ordinance for certain amendments to concept plans, sketch plans, and schematic development plans. See Section 24-198(c)(2)(iii)(b) of the Gaithersburg Zoning Ordinance.

**Alternate site plan approval (25.07.16) – New Section**

- This new section would allow for approval of an “alternate site plan” for development “inconsistent with the approved project plan.” There is no guidance given on what would be considered “inconsistent.” This same issue arose where a contract purchaser believed a new headquarters building at the Lantian property was not inconsistent with a previously approved project plan and could move forward, but the City disagreed.
- This language should be clarified by stating an alternate site plan is not required to implement a multi-phased project plan when proposed development is consistent with the first project plan phase but not subsequent phases. In such situations, the first phase can commence without an alternate site plan as long as the project plan is amended before the next phase proceeds.
- Section 25.07.16.f – This new provision would prohibit the approval of any site plan implementing a project plan after an approved “alternative site plan” unless the project plan is amended to be consistent with the alternative site plan. If the Mayor and Council does not approve such an amendment to the project plan within 18 months of approval of the alternative site plan, the project plan is deemed abandoned. Given the lengthy project plan review times experienced in Rockville, a two year deadline with two six month extensions is more reasonable.

**Site Design and Relationship to Surrounding Community (25.13.06.c)**

- Lantian supports deleting this provision.

**Number of Parking Spaces Required (25.16.03)**

- Lantian supports a vehicle parking ratio of 1 space per 1,000 GFA for the research and development use.
- Regarding bicycle spaces, Montgomery County provides for a maximum of 100 spaces. The City should as well.





Mayor & Council

April 7, 2021

Dear Mayor & Councilmembers:

This letter is in support of the changes presented by staff as *Authorization to File Zoning Text Amendment to Modify the Requirements for Project Plans, Roadway Classifications in Mixed Use Zones and the Definition of Demolition* on the Mayor & Council meeting for April 12, 2021.

The Rockville Economic Development, Inc. (REDI) has prioritized the attraction and retention of businesses in bio health/bio tech, tech and cyber, professional services and headquarters that bring desirable jobs and economic growth to the City of Rockville. We have repeatedly commended the City for its FAST program that provides timely and responsive service to businesses who choose Rockville, as well as the positive customer service model for delivery of development and community services.

The proposed amendment continues this effort to streamline the development process and make it easier to do business in Rockville, while still retaining necessary protections. In particular, the changes allowing easier adaptive re-use of buildings with less onerous procedures will encourage businesses making quick decisions about location. Currently, there are several large headquarters looking at Rockville that have sensitive timing needs, and this will allow them to move forward with an existing building quickly so long as there is minimal impact as set forth in the proposed amendment (i.e. an expansion not generating more than 30 peak hour trips). It is important to note that the amendment does not alter the minimum notification to requirements to neighboring properties.

We appreciate the City's continued efforts to position us to be able to respond to the needs of business in a timely manner that allows us to take advantage of desirable market conditions, especially as we are rebuilding post-pandemic.

Very truly yours,

  
Cynthia Rivarde  
CEO

Cc: Susan Prince, Board Chair



City of Rockville

## MEMORANDUM

June 16, 2021

TO: Mayor and Council

FROM: Planning Commission

SUBJECT: Planning Commission Recommendation on Zoning Text Amendment Application TXT2021-00260, To modify the requirements for Project Plans, roadway classifications in Mixed Use Zones, Minor and Major Site Plan Amendments, development approval abandonment, the definition of demolition, and the addition of Research and Development use and associated parking standard; Mayor and Council of Rockville, Applicants

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At its meetings on May 12 and May 26, 2021, the Planning Commission reviewed and discussed Zoning Text Amendment (ZTA) Application TXT2021-00260, which would implement several elements of the FAST Program. The Planning Commission discussed each aspect of the text amendment individually and took straw votes for each one. After the discussion and deliberation, the Planning Commission voted to recommend approval of each of the aspects of the Text Amendment to the Mayor and Council.

### SUMMARY OF PLANNING COMMISSION RECOMMENDATIONS

#### Project Plan and Site Plan Review during Review of Annexation Petition

This aspect of the amendment would require that a site plan submitted while an Annexation petition is pending would be processed as a Project Plan, to be approved by the Mayor and Council. The Commission had concerns regarding the change in Approving Authority, while recognizing the value of having the Mayor and Council approve both applications, as the proposed development could factor into the decision to annex. The Commission would retain authority for the Annexation Plan, to be adopted by Mayor and Council, as well as make recommendations on the Project Plan. The amendment would not result in less public process, but would actually require more process, given that a Project Plan would be followed by a

subsequent Site Plan review. The Commission also notes that a Site Plan submitted once an Annexation process is complete would be processed as it is currently.

#### Street Connections Required by Mixed Use Design Guidelines

Section 25.13.06, which contain design guidelines for development in the City's mixed-use zones, requires that development projects in the City's MXTD (Mixed-Use Transit District), MXCD (Mixed-Use Corridor District) and MXE (Mixed-use Employment) zones connect to an arterial, major or business district roadway, and not to residential streets. However, there are times when projects in these districts are less intense and would not demand this type of connection. The Commission concurred with staff's recommendation that the type of road classifications should be based on the City's Transportation Standards and not the Zoning Ordinance and that this guideline should be deleted because is already addressed through other City standards.

#### Abandonment of Approved Development Plan

The Commission discussed this provision at length, as it is not initially clear why an applicant would abandon an approved development plan. Staff explained the need for such a provision might occur as market forces or other conditions change such that the originally approved plan is no longer feasible or desirable from the applicant's perspective, and also avoids the inherent conflict when redevelopment of property is approved for land that contains existing approved development. An applicant could decide that the best course of action is to reuse existing structures per the existing site approvals and not implement the new approval immediately. In this case it is in the City's best interest that the approved entitlement that has not been implemented be allowed to be abandoned.

The Commission supports this amendment, as it addresses the possibility of having major headquarters locate in Rockville on property that already has a Project Plan approval. This would allow for new headquarters to occupy existing/modified office buildings and a substantially larger new office building. By allowing the owner to abandon the previous project plan, the new headquarters could move forward through a more expedited site plan process, thus improving Rockville's ability to land these new headquarters.

#### Reuse/Redevelopment for Non-residential Development Within Commercial Corridors

The Commission supports a more streamlined process to administratively amend site plans in specific areas within Rockville's main non-residential corridors, away from existing residential communities. These proposed amendments would allow for minor expansions to existing buildings and minor modifications to existing sites if they meet all Rockville development requirements. The Commission supports this clarification, while ensuring that minor reuse/redevelopment modifications that are approved by staff will be typically those older non-residential properties completely surrounded by other non-residential uses. Staff's recommendation that the 300 feet should not apply when the area for the site plan changes is separated from existing single family residential by an arterial or major highway roadway,

railroad/rail right-of-way, open space/buffer or when the additions to buildings are more than 300 feet away. The amendment will create a process that allows owners to make improvements to existing commercial structures without having to go through a lengthy major site plan amendment review process and produce a detailed site and/or project plan. The outcome will remain the same, achieving compliance with all provisions of City code. The Commission recommends this aspect, as it amounts to an incentive to commercial property owners in the listed zones to make their properties more attractive, marketable, and useable, while helping the City overcome setbacks caused by economic conditions with the advent of the coronavirus while upholding zoning and related requirements.

#### Minor Site Plan Amendments, Generally

As a corollary to the above, the Commission concurs with the proposed text amendment that certain types of common site improvements not require a site plan amendment. This would include improvements, such as emergency generators, transformers and dumpsters also be able to be installed without site plan approval, while site review would still occur at the permit level to ensure that all such installations meet code requirements.

The Commission appreciated that staff undertook a review of similar and adjacent jurisdictions, including the cities of Frederick and Gaithersburg, as well as Montgomery County, to compare requirements for minor site plan amendments in those jurisdictions. While each has a unique process, staff found that the recommendations would provide more flexibility and a timelier process in Rockville in comparison.

#### Approval of Alternate Site Plans

The text amendment proposes that there is a the need for approval of alternate site plans, or site plans that deviate from an approved Project Plan. Currently, only site plans that are in conformance with an approved project plan may be approved within a project plan area. However, there may be circumstances when the developer wants to move forward with a different type of development in the near term, due to circumstances beyond anyone's control, such as an economic opportunity that presents itself with a short timeline. This would allow either entirely new site plans or site plan amendments to be approved that deviate from the project plan and allow for subsequent amendments to the approved Project Plan to bring it into compliance with the site plan previously approved. The Commission supports this aspect, provided that the Project Plan itself would have to be amended within 18 months of the date of the alternate site plan. This would allow the remainder of the project plan to be adjusted so that compliance with all City requirements could be reviewed and evaluated comprehensively, while also allowing for flexibility in the near term.

#### Addition of Research and Development Use and Parking Requirement

The City's Zoning Ordinance does not include research and development use as a permitted use in the code. According to staff, these types of uses have been identified by their component uses, which may include office, lab or manufacturing uses in combination. The amendment

proposes that this use be added to the ordinance as permitted in the MXTD (Mixed-Use Transit District), MXCD (Mixed-Use Corridor District), MXE (Mixed-Use Employment) and I-L (Light Industrial) uses. Due to the City's proximity to the Shady Grove Life Sciences Center, the City would show that it is welcoming to this use and provide clarity to property and business owners alike that their uses are permitted in Rockville. The Commission supports the staff recommendation that the use be added to the code, in the same form as in Montgomery County's ordinance.

Based on staff's recommendation, the Commission supports adding this use to the "Office" category in the use charts in the Zoning Ordinance, which already includes like uses such as research lab.

With the introduction of a new use to the code, a corresponding parking requirement is in order. The text amendment proposes that this also match that of Montgomery County at 1.5 parking spaces per 1,000 square feet of gross floor area. This requirement represents a significant reduction from general office but is in line with current requirements for manufacturing and lab space, at 2 parking spaces per 1,000 square feet.

At the Commission's request, staff researched the County's Zoning Ordinance rewrite process, which resulted in a new code becoming effective in October 2014. One of the requirements of the code rewrite was to ensure that the appropriate amount of parking is provided for developments in the County. This includes different parking standards for certain areas of the County, including designated parking districts and reduced parking areas, as well as standards for commercial uses based on the zoning district of the property. As part of that process, the County also implemented parking standards for both office and life sciences/research and development uses. The requirement of 1.5 spaces per 1,000 square feet of R&D space applies across different parking categories and may be reduced to 1.0 space per 1,000 square feet in designated parking districts and reduced parking areas. In developing these standards, the County relied on a consultant team, comparisons with ITE (Institute for Transportation Engineering) standards and public input. Staff found that the parking requirements in the 2014 County Zoning Ordinance were sufficiently researched, vetted, and considered throughout the process and the Commission was satisfied with this result.

#### Modifications to the Definition of Demolition

During previous discussions with the Mayor and Council, it was identified that the City's definition of demolition needed to be updated. The current definition for demolition is the complete razing of a building or structure. However, this does not address situations where a portion of the structure is retained, however small. In Rockville, this can be significant in that the code requires an Evaluation for Historic Significance when demolition, as currently defined, is proposed. The text amendment recommends that the definition be modified to read that if more than 50 percent of floor area of a building is removed, it is considered demolition, and the requirements for an evaluation would be triggered, as follows:



Demolition means the complete razing or removal of more than 50 percent of the floor area of a building or structure, or substantial reconstruction that removes more than 50 percent of the building floor area, as defined in Chapter 5.

Commissioners asked how this recommendation compares with other peer jurisdictions. Staff responded that most jurisdictions follow the International Building Code (IBC) to define demolition and do not define it in the zoning code. However, some jurisdictions have their own definitions of demolition, including:

Montgomery County: demolish means to tear down or destroy an entire building or structure, or all of a building or structure except a single wall or facade.

City of Frederick: Frederick City ties historic evaluation to demolition, and establishes criteria in its code for what triggers historic review: demolition of an entire structure; removal of a roof for the purposes of raising the overall height of the roof, rebuilding the roof to a different pitch, or adding another story to a structure; removal of one or more exterior walls or partitions of a structure; removal of more than 25 percent of a structure's overall gross square footage; or relocation or moving of a structure from its existing location.

The Commission recommended that the proposed change to the definition be considered by the Historic District Commission (HDC).

After reviewing all aspects of the text amendment, the Commission also reviewed the proposed text. Chair Pitman raised a concern regarding the language for amendments to approved development being too subjective. After discussion, the Commissioners agreed that the retention of the language referencing, "a comprehensive change to more than twenty (20) percent of the project area," would be suitable.

Therefore, on a motion by Commissioner Littlefield, seconded by Commissioner Nunez, the Commission voted unanimously to recommend approval of Text Amendment TXT2021-00260, with the comments and recommendations noted.





Mayor & Council Meeting Date: September 13, 2021  
 Agenda Item Type: Discussion and Instructions  
 Department: Housing and Community Development  
 Responsible Staff: Asmara Habte

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## **Subject**

Brightview Senior Housing: Conceptual Discussion on In-Lieu Fee on Senior or Special Needs Housing with Services

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## **Recommendation**

Staff believes an in-lieu fee option, as proposed, is a mutually beneficial approach to meet the City's affordable housing objective, and therefore supports BLS' request. As such, staff recommends that the Mayor and Council approve the concept and direct staff to amend the MPDU regulations accordingly.

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## **Discussion**

### **Summary**

Brightview Potomac Woods ("Brightview") is a Senior Housing with Services product type that provides a continuum of care consisting of Independent Living, Assisted Living, and Memory Care living arrangements. Unlike standard senior rental housing product, for a monthly fee, this product type provides housing and services including meals, daily programming, transportation, housekeeping, and other personal care assistance services.

City staff and representatives from the senior housing developer, Brightview Senior Living ("BSL"), are currently negotiating an Alternative Housing Agreement per City Code on the Moderately Priced Dwelling Units (MPDU) Chapter 13.5 on "Senior or Special Needs Housing with Services." Under Chapter 13.5, developments like Brightview may satisfy the City's MPDU requirement in one of two ways: 1) the production of MPDUs or 2) through a monetary contribution into the City's Housing Opportunities Fund. Section 13.5-5(f)(3) of the Rockville City Code requires that such projects seek the Mayor and Council approval of an Alternative Housing Agreement.

BSL seeks to exercise the in-lieu option to meet the City's MPDU requirement. Under BSL's proposal, the City could realize a nearly \$5.6 million contribution into our Housing Opportunities Fund. This memo summarizes BSL's proposal for meeting the MPDU requirement at the Potomac Woods site.

### **Project Description**

Brightview is part of the larger proposed Potomac Woods development that would include approximately 200<sup>1</sup> non-age restricted homeownership townhouses and condominiums. Brightview would also be walkable to the shops, grocery and restaurants in the neighboring Potomac Woods Shopping Center and Park Potomac community. Brightview proposes 236 total units consisting of independent, assisted and memory care units.

The developer, BSL, owns and operates 42 senior living communities in the mid-Atlantic and northeast region. Brightview Potomac Woods would be BSL's fifth service-enriched senior living community in Montgomery County. Of the five in the County, two are in Rockville—Brightview West End (Town Center) and Brightview Fallsgrrove<sup>2</sup>. The proposed project is anticipated to help meet the growing demand in the City of Rockville for services-rich senior housing in a walkable and intergenerational neighborhood.

### **Brightview's Proposal**

As noted above, Brightview is seeking an in-lieu payment option to satisfy its MPDU requirement. Under Section 13.5, the in-lieu payment for developments such as Brightview is based on the in-lieu fee calculation methodology for standard rental or homeownership products (i.e., no services). Specifically, the fee is equal to 90% of the difference between a dwelling unit's market rate purchase price and the sales price affordable to an MPDU household earning the maximum MPDU household income. The U.S. Department of Housing and Urban Development (HUD) defines affordability when housing costs are 30% or less of gross income. In addition, the calculation considers the most recent average regional 30-year fixed mortgage rate as reported by the Freddie Mac Primary Mortgage Market Survey (or similar reputable source) at the time of the applicant's request, local property tax rates, a reasonable estimate for insurance costs based on unit construction type, and a 5% borrower down payment.

The in-lieu fee calculation methodology, as noted above, is incompatible with the senior housing with services product type. These product types are neither for rent or sale. Instead, this product type offers a service package that includes residence, meal plan, transportation, housing, personal care assistance, and other services for a set monthly fee.

Recognizing the incompatibility, in 2019, the City adopted a policy creating affordability requirements, to be met through MPDU units or an in-lieu fee, specific to Life Care Facilities (LCF). The City's Zoning Ordinance defines Life Care Facilities as *"a facility housed in a single building or group of buildings that provide for continuing progressive care of residents. Occupancy is restricted as provided in Title 10 of the Human Services Article of the Annotated Code of Maryland, as amended, and any other applicable provisions issued by the Department of Aging. A life care facility must include dwelling units for either independent or assisted living,*

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<sup>1</sup> The MPDU requirements for the non-age restricted component of the development will be addressed separate and apart from Brightview Potomac Woods. The non-age restricted component is being developed and constructed by different entities.

<sup>2</sup> This development does not contain MPDUs as the development was constructed prior to the City's implementation of the current policy on Senior or Special Needs Housing with Services.

or both, plus a nursing home of a suitable size to provide treatment or care of the residents; it may include ancillary facilities for the further enjoyment, service, or care of the residents." Other characteristics of LCF included asset and health tests that determine an applicant's qualification to reside in the community. The entry fee can exceed a million dollars, depending on the outcome of the health assessments and other conditions.

Like LCF communities, Brightview consists of independent living, assisted living, memory care, meal plan, transportation, housekeeping, and other resident service offerings. However, unlike LCFs, Brightview does not have a skilled nursing component. Moreover, Brightview does not have a hefty entry fee<sup>3</sup> or health and asset test requirements. Notwithstanding these differences, however, Brightview is, otherwise, an all-inclusive senior housing product. Accordingly, the in-lieu fee methodology for LCF is an appropriate application for Brightview. The LCF in-lieu fee calculation is based on a 5% set-aside of the entire universe of the number of units at the development, (including independent living, assisted living, skilled nursing and memory care units), and applying the multipliers of the MPDU rent one-bedroom unit and the control period of 30 years or 360 months. Under the LCF fee calculation, Brightview's in-lieu fee calculation would net the City nearly \$5.6 million, payable in two increments. Below is a summary of the assumptions and calculation:

**Table 1. In-Lieu Fee Calculation**

<b>LCF In-Lieu fee Calculation</b>	<b>#</b>
Total # of Units	239
# of MPDUs-5%	12
2021 MPDU Rent (One-bedroom) <sup>4</sup>	\$1,290
Monthly MPDU Rent Amount for All MPDUs	\$15,480
Annual MPDU Rent Amount for All MPDUs	\$185,760
MPDU Rent Over 30 YR Control Period	\$ 5,572,800
<b>In-Lieu Fee</b>	<b>\$ 5,572,800</b>

The alternative of our requiring hard MPDU units would generate 18 affordable units at various affordability and income bands. Under the current MPDU Ordinance, Brightview is only required to produce these units within its independent living component of the development. The memory care and assisted living units are excluded from the set-aside requirement. As such, a resident of an MPDU unit at Brightview whose healthcare needs change during their tenure in the community, would not be accommodated at the facility by relocating to an assisted living or memory care unit that could better meet their care needs. *Moreover, the pricing structure based on current MPDU regulations is such for these product types that affordability is difficult to achieve considering that the monthly fees would require between 70%*

<sup>3</sup> The entry fee for the Brightview West end was \$5,000. Representatives from BSL have indicated that they will likely maintain the same entry fee for the proposed project.

<sup>4</sup> Staff is using the MPDU rent for a one-bedroom because it is assumed that most seniors entering these products are typically a one-person household occupying a one-bedroom unit. MPDU policy allows for a two-person household to occupy a one-bedroom unit. The rent does not change for a two-person household. The MPDU rent reflected in this calculation is based on the City's 2021 MPDU rents, which is an extrapolation of the HUD 2021 income limits.

to 75% of gross income, leaving a smaller margin for medicine and other necessities an elderly person may require. Below is a summary of a scenario that requires 18 MPDU units.

**Table 2. Potential MPDU Pricing Structure**

**Brightview Potomac Woods MPDU Proposal<sup>5</sup>**

Assumptions					
2021 100% AMI	\$ 129,000				
2021 1 Person Household AMI	\$ 90,300				
Independent Living (IL) Units	139				
Required % of MPDU	15%				
Required # of MPDU	21				
Reduced Waiver (permitted by Code) <sup>6</sup>	12.5%				
Reduced Waiver	18				
Tier (AMI) <sup>7</sup>	Max. Income	% of Gross Income applied to monthly fee <sup>8</sup>	Calculated Monthly Fee	Number of Units in Each Tier	% of MPDUs in Each Tier
Tier 1 (40%)	\$36,120	70%	\$2,107	3	17%
Tier 2 (60%)	\$54,180	75%	\$3,386	5	28%
Tier 3 (80%)	\$72,240	75%	\$4,515	10	56%
<b>Totals</b>				<b>18</b>	<b>100%</b>

<sup>5</sup> This proposal reflects one example of an affordability distribution scenario, and while the distribution can vary, the pricing, based on the City's formula, does not change.

<sup>6</sup> As part of its request for an alternative MPDU agreement, and only when MPDUs are provided onsite, the applicant may request permission to provide a percentage of onsite MPDUs that is lower than otherwise required if the applicant can demonstrate that providing the reduction will result in furthering the objective of providing a broad range of housing opportunities throughout the city. The maximum percentage reduction is limited to two and one-half (2.5) percentage points from the required percentage of MPDUs.

<sup>7</sup> In 2018, the Mayor and Council adopted an expanded MPDU income limit from 60% of AMI to up to 120% of AMI to create affordable units for a broader range of incomes. The example above uses the expanded income band to provide units below and above 60% of AMI.

<sup>8</sup> The monthly cost for housing, meals, transportation, housekeeping, and other associated cost items are grouped into one monthly fee.

As shown above, the proposal offers units at three income tiers—40%, 60%, and 80% of Area Median Income (AMI). The most affordable units are those units in the 40% AMI income band at \$2,107 per month. The City can leverage the expanded income limits to create units below 60% of AMI, balanced with the creation of units at higher AMIs.

Brightview does not have an asset test that requires a substantial upfront investment, however, it does require a non-refundable \$5,000 entry fee—a fee that's out of reach for a typical senior at the MPDU income limits, especially those at or below 60% of AMI. Given the upfront investment barrier to entry, finding income-eligible seniors to occupy these units is often challenging. And when eligible seniors are identified, maintaining the monthly payment often becomes difficult for those seniors, especially if their health condition changes, often forcing the resident and their families to find alternative housing, which is equally difficult.

As the Mayor and Council members are aware, residents and families of residents occupying MPDU units at the Brightview West End development have complained that they cannot afford their units. Similarly, some residents have reached out to City staff seeking staff intervention in their request to the owner to remove the cost of meals, transportation, housekeeping and other services, from their monthly fee in order to afford the unit and continue their occupancy in the property.

#### **Disbursement of In-Lieu Fee**

The MPDU Regulation requires that the funds be disbursed in two increments—50% of the total fee is due when the applicant submits the first application for a building permit for the project; and the remaining due before the issuance of any certificate of occupancy for the project. Brightview is requesting flexibility in the initial disbursement to align the distribution with their proposed financial closing, and thus seeks to time the initial disbursement with the issuance of the building permit. City staff could craft an agreement outlining an agreed-upon timeframe for the payment of the in-lieu fee as a way of accommodating the request or structure the agreement such that the developer makes a payment of less than 50% as mutually agreed upon at the time of submission of the application for building permits.

#### **Ancillary Information**

Staff reviewed the policy of local jurisdictions on Senior Housing with Services product for comparison. Below is a high-level summary of policies in the region:

##### *District of Columbia*

The District allows developers of Senior Housing with Services to seek exemption from building affordable units onsite. If a developer can show that fees cannot be separated from the unit, the property can ask for a special exemption to move units off site. The District does not have an in-lieu fee option for this development product.

##### *Fairfax*

Fairfax requires an in-lieu fee for these products. The in-lieu fee is based on \$3/ft square of the entire development. The subject applicant has an active project in Fairfax County and their in-lieu fee for the project was \$750,000.

### *Gaithersburg*

Gaithersburg's policy on Senior Housing with Services is largely based on Rockville's current policy. Unlike Rockville's policy, however, Gaithersburg requires a set-aside along the entire spectrum of units—independent living, Assisted Living and Memory Care units. Gaithersburg does not have an in-lieu fee option for this development product. The City has one project yet to be built.

### *Montgomery County*

Currently, all senior rental properties must provide MPDUs, even if the high required service fees are too high to be affordable to MPDU households. The County has resolved this conflict by allowing senior rental properties with high service fees to negotiate an alternative location agreement with another developer that allows the units to be transferred to another property that is affordable to MPDU renters. The County recently negotiated an agreement<sup>9</sup> with a developer of a new property with high fees to transfer the MPDUs to a nearby mixed-income Low Income Housing Tax Credit (LIHTC) senior property by making a payment to the LIHTC property. This allowed an increase in the number of affordable units, and the rent on some of the units to be reduced to create more affordability. In 2019, the County convened a study group, consisting of developers and senior housing providers, as well as the City of Rockville and Gaithersburg, to look at this issue and to develop recommendations. The work is delayed because of the pandemic, but County staff anticipates developing recommendations over the next year.

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## **Mayor and Council History**

This is the first time this item is front of the Mayor and Council.

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## **Next Steps**

1. Amend the implementing MPDU Regulations to reflect the application of the fee calculation for the LCF community to Senior Housing with Services product. Staff could bring forth the recommended amendments to the Mayor and Council at the next meeting for discussion and possible adoption.
2. Bring forth Brightview's fee-in-lieu proposal to the Mayor and Council for consideration.

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<sup>9</sup> In 2019, Montgomery County entered an alternative location agreement with a developer of a senior housing with services project in which the developer contributed \$700,000 to a LIHTC developer, in exchange for increasing the number of the LIHTC units by 10 units. The \$700,000 number represents \$70,000/MPDU unit based on an analysis of the increased value available to the sending property by relocating the MPDUs to the receiving property.





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Rob DiSpirito, City Manager

9/8/2021



Mayor & Council Meeting Date: September 13, 2021  
 Agenda Item Type: Discussion, Instructions and Possible Adoption  
 Department: Housing and Community Development  
 Responsible Staff: Asmara Habte

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## Subject

Adoption of Resolution: Hate Has No Place Here: Condemning and Denouncing All Hate and Hate-Motivated Violent Actions in the City of Rockville.

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## Recommendation

Staff recommends the Mayor and Council discuss the attached resolution and provide staff with direction towards finalizing the resolution for potential adoption.

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## Discussion

This agenda item is a continuation of an ongoing Mayor and Council discussion on social justice, racism, and bias in Rockville. The Mayor and Council have discussed this topic at previous Mayor and Council meetings, including June 22, July 6, July 20, September 21, December 14, 2020, and January 25, 2021, May 24, 2021, and July 12, 2021. At the January 25 meeting, the Mayor and Council directed staff to draft a framing resolution for the Mayor and Council's consideration. On July 12, 2021, the Mayor and Council adopted a "Resolution to Endorse and Commit to the Establishment of Government Policies and Practices that Promote Racial Equity and Social Justice."

At the Mayor 24 meeting, the Mayor and Council directed staff to draft a separate resolution titled "Hate Has No Place Here: Condemning and Denouncing All Hate and Hate-Motivated Violent Actions in the City of Rockville" to denounce hate against all groups, including but not limited to those of who identify as Semitic, especially those of the Jewish faith, Islamic and Sikh, and the Asian-American and Pacific Islander communities. Attached to this report for Mayor and Council consideration is a draft resolution.

The Montgomery County Department of Police 2019 Annual Report on Bias Incidents provides county annual data on bias incidents. Below is the weblink to the report:

[https://www.montgomerycountymd.gov/pol/Resources/Files/annual-reports/BiasIncidents/2019%20MCPD%20Annual%20Report%20on%20Bias\\_FINAL.pdf](https://www.montgomerycountymd.gov/pol/Resources/Files/annual-reports/BiasIncidents/2019%20MCPD%20Annual%20Report%20on%20Bias_FINAL.pdf)

Since 2020, the Mayor and Council has held nearly monthly conversations on racial equity and social justice. These conversations have resulted in a collection of potential implementable actions, including establishing a citizen-driven police advisory board, launching an employee

and a community-wide survey, and creating a new Full-Time Equivalent (FTE) position through the FY 2022 budget process for Assistant to the City Manager for Diversity, Equity and Inclusion. Also funded was a contract with the Montgomery County Crisis Intervention Team (CIT) for a Mental Health Specialist to be assigned to the Rockville Police Department to train and serve officers, and to respond to non-criminal events such as mental health crisis, homelessness, housing needs, domestic violence, and addiction. In addition, the Mayor and Council also established Juneteenth as a City holiday, celebrating the day through education and community service centered around the meaning of Juneteenth. Finally, the Mayor and Council sent letters to State legislators advocating for the repeal of Maryland's song, "Maryland, My Maryland", which was repealed during the last State legislative session.

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### **Mayor and Council History**

The Mayor and Council have discussed this topic at previous Mayor and Council meetings, including June 22, July 6, July 20, September 21, December 14, 2020, January 25, 2021, May 24, 2021, and July 12, 2021.

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### **Mayor and Council History**

The Mayor and Council have discussed this topic at previous Mayor and Council meetings, including June 22, July 6, July 20, September 21, December 14, 2020, January 25, 2021, May 24, 2021, and July 12, 2021.

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### **Boards and Commissions Review**

Staff circulated the draft resolution to the City of Rockville Human Rights Commission, Health and Human Services Advisory Commission, and the Asian-American and Pacific Islander Task Force for feedback. The attached draft resolution incorporates the comments received from these commissions and task force.

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### **Next Steps**

Staff recommends the Mayor and Council discuss the attached resolution and provide staff with direction towards finalizing the resolution for potential adoption.

### **Attachments**

Attachment 16.a: Resolution\_hate\_has\_no\_place\_here\_090821 (DOCX)



Rob DiSpirito, City Manager

9/8/2021

Resolution No: \_\_\_\_\_

Resolution: Hate Has No Place Here:  
Condemning and Denouncing All Hate, and  
Hate-Motivated Violent Actions in the City of  
Rockville.

**WHEREAS**, our American dream can be realized only with equality and acceptance of all who seek peace and liberty in our country and our City; and

**WHEREAS**, the Rockville Mayor and Council is committed to inclusion and advancing equity and justice for people of all races, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, disability, economics and perceived economic status, or genetic information; and

**WHEREAS**, the Rockville Mayor and Council affirms its ongoing commitment to cultivating an inclusive, safe, and just society and culture – including within City government operations and institutions – that values the diversity of our community, works to ensure equitable opportunities in all major facets of society, and celebrates both our individuality and commonality; and

**WHEREAS**, since the outbreak of the Coronavirus pandemic, harmful and xenophobic rhetoric, related to the geographic origins of this disease resulted in a rise in reported hate incidents and crimes against Asian American and Pacific Islander individuals, communities and businesses throughout the country; and

**WHEREAS**, there has been an increase in misogynistic, anti-Semitic, especially those belonging to the Jewish faith, Islamophobic, anti-Sikh, anti-Asian and Pacific Islander, anti-Black and Brown rhetoric, harassment, and violence in various parts of the country; and

**WHEREAS**, the Rockville Mayor and Council commit to countering hate and extremism through engagement with community leaders, governmental transparency, and public information-sharing regarding efforts to fight extremism, and the investigation and prosecution of those who commit criminal acts, consistent with civil liberties protections.

**NOW, THEREFORE, BE IT RESOLVED** that ideologies based on hate, violence, discord and intolerance are rejected and condemned, and we urge residents to join us in adopting these values in their own lives, calling attention to these harms, and denouncing hate and extremism to help keep us all safe.

**BE IT FURTHER RESOLVED** that the Rockville Mayor and Council hereby reject prejudice and bigotry based on race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, disability, economics and perceived economic status, or genetic information.



Mayor & Council Meeting Date: September 13, 2021  
Agenda Item Type: Review and Comment  
Department: City Clerk/Director of Council Operations Office  
Responsible Staff: Sara Taylor-Ferrell

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## Subject

Future Agendas

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## Recommendation

## Attachments

Attachment 17.A.a: Mock Agenda 9.20.21 (PDF)  
Attachment 17.A.b: Mock Agenda 9.27.21 (PDF)  
Attachment 17.A.c: Future Agendas as of 9.13.21 (PDF)

  
Sara Taylor-Ferrell, City Clerk/Director of Council Operations 9/9/2021



## MAYOR AND COUNCIL

### MEETING NO.

**Monday, September 20, 2021 – 7:00 PM**

### MOCK AGENDA

Agenda item times are estimates only. Items may be considered at times other than those indicated.

Any person who requires assistance in order to attend a city meeting should call the ADA Coordinator at 240-314-8108.

Rockville City Hall is closed due to slowing down the spread of the coronavirus COVID-19 and continue practicing safe social distancing.

#### Viewing Mayor and Council Meetings

To support social distancing, the Mayor and Council are conducting meetings virtually. The virtual meetings can be viewed on Rockville 11, channel 11 on county cable, livestreamed at [www.rockvillemd.gov/rockville11](http://www.rockvillemd.gov/rockville11), and available a day after each meeting at [www.rockvillemd.gov/videoondemand](http://www.rockvillemd.gov/videoondemand).

#### Participating in Community Forum & Public Hearings:

If you wish to submit comments in writing for Community Forum or Public Hearings:

- Please email the comments to [mayorandcouncil@rockvillemd.gov](mailto:mayorandcouncil@rockvillemd.gov) by no later than 10:00 a.m. on the date of the meeting.
- All comments will be acknowledged by the Mayor and Council at the meeting and added to the agenda for public viewing on the website.

If you wish to participate virtually in Community Forum or Public Hearings during the live Mayor and Council meeting:

1. Send your **Name, Phone number, the Community Forum or Public Hearing Topic and Expected Method of Joining the Meeting (computer or phone)** to [mayorandcouncil@rockvillemd.gov](mailto:mayorandcouncil@rockvillemd.gov) no later than **10:00 am on the day of the meeting**.
2. On the day of the meeting, you will receive a confirmation email with further details, and two Webex invitations: 1) Optional Webex Orientation Question and Answer Session and 2) Mayor & Council Meeting Invitation.
3. Plan to join the meeting no later than 6:40 p.m. (approximately 20 minutes before the actual meeting start time).
4. Read for <https://www.rockvillemd.gov/DocumentCenter/View/38725/Public-Meetings-on-Webex>
5. meeting tips and instructions on joining a Webex meeting (either by computer or phone).
6. If joining by computer, **Conduct a WebEx test:** <https://www.webex.com/test-meeting.html> prior to signing up to join the meeting to ensure your equipment will work as expected.
7. Participate (by phone or computer) in the optional Webex Orientation Question and Answer Session at 4 p.m. the day of the meeting, for an overview of the Webex tool, or to ask general process questions.

#### Participating in Mayor and Council Drop-In (Mayor Newton and Councilmember Pierzchala)

Drop-In Sessions will be held by phone on Monday, September 27 from 5:30-6:30 p.m. **Please sign up by 10 a.m. on the meeting day using the form at:** <https://www.rockvillemd.gov/formcenter/city-clerk-11/sign-up-for-dropin-meetings-227>



7:00 PM 1. Convene

2. Pledge of Allegiance

7:05 PM 3. Boards and Commissions Appointments and Reappointments

A. Boards and Commission Appointments and Reappointments

7:10 PM 4. Discussion on Instructions on Employee Mandatory Vaccination

8:10 PM 5. Adjournment into Closed Session pursuant to Sections 3-305(b)(7) and 3-305(b)(8) of the General Provisions Article of the Annotated Code of Maryland to consult with counsel to obtain legal advice and consult with staff, consultants, or other individuals about potential litigation.

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: <http://www.rockvillemd.gov/mcguidelines>.



## MAYOR AND COUNCIL

### MEETING NO.

**Monday, September 27, 2021 – 7:00 PM**

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7:00 PM 1. Convene

2. Pledge of Allegiance

3. Agenda Review

7:05 PM 4. City Manager's Report

7:15 PM 5. COVID-19 Update

7:25 PM 6. Presentation

A. Presentation by Montgomery County on Corridor Forward - Municipal Coordination

7:40 PM 7. Community Forum

Any member of the community may address the Mayor and Council for 3 minutes during Community Forum. Unless otherwise indicated, Community Forum is included on the agenda for every regular Mayor and Council meeting, generally between 7:00 and 7:30 pm. Call the City Clerk/Director of Council Operation's Office at 240-314-8280 to sign up to speak in advance or sign up in the Mayor and Council Chamber the night of the meeting.

8. Mayor and Council's Response to Community Forum

8:00 PM 9. Financial Advisory Board FY 2021 Annual Report and FY 2022 Work Plan

8:20 PM 10. Presentation and Discussion of Water and Sewer Rates and Rate Structure

9:20 PM 11. Brightview: Proposed Amendment of MPDU Code and Regulations on In-Lieu Fee on Senior or Special Needs Housing with Services

9:40 PM 12. Discussion, Instructions and Possible Adoption to Staff for Zoning Text Amendment TXT2021-00258, for Changes to Setback and Open Space Requirements for the Residential Medium Density (RMD) Zones, the Creation

of a New RMD-Infill Zone to Implement the Comprehensive Plan Amendments for the North Stonestreet Avenue and Park Rd Areas; Mayor and Council of Rockville, Applicant

- 10:10 PM 13. Introduction and Possible Adoption for Sectional Map Amendment MAP2021-00120, for the North Stonestreet Avenue and Park Road and North/South Stonestreet Avenue Areas; Mayor and Council of Rockville, Applicants
- 10:25 PM 14. Procurement Action Plan Update 54-Month
- 10:40 PM 15. FY21 MFD Update FY21 Minority, Female, and Disabled-Owned Businesses (MFD) Program Update
- 10:55 PM 16. Review and Comment - Mayor and Council Action Report
17. Review and Comment - Future Agendas
18. Old/New Business
- 11:00 PM 19. Adjournment

The Mayor and Council Rules and Procedures and Operating Guidelines establish procedures and practices for Mayor and Council meetings, including public hearing procedures. They are available at: <http://www.rockvillemd.gov/mcguidelines>.

**Future Agendas  
As of 09/13/2021**

Category	Estimated Agenda Time Needed (in minutes)	Title
<b>Meeting : 10/04/21 07:00 PM (10 items)</b>		
Proclamation	5	Proclamation Declaring October as National Breast Cancer Awareness Month
Proclamation	5	Proclamation Declaring October as National Hospice and Palliative Care Month
Proclamation	5	Proclamation Declaring October as National Arts and Humanities Month
Discussion	45	Discussion on Branding
Discussion and Instructions	60	Discussion and Instruction on ARPA Funds
Presentation	15	Retirement Board Annual Report
Proclamation	5	Proclamation Declaring National Domestic Violence Awareness Month
Public Hearing	20	Public Hearing on Project Plan PJT2021-00013, King Buick, for a Proposed Residential Development with Up to 253 Townhouses and 118 Multifamily Units at 16200 Frederick Road; EYA Development, Applicant
Introduction and Possible Adoption	15	Adoption of Resolution to Enlarge Corporate Boundaries of the City of Rockville. Adoption of Ordinance to Amend the Zoning Map Related to <u>Annexation Petition ANX2020-00146 (King Buick)</u>
Discussion and Instructions	25	Discussion and Instruction on Outdoor Seating at Gibbs Street and East Montgomery Avenue
<b>Total Meeting Time (In Hours)</b>	<b>3 HRS 20 MINS</b>	
Category	Estimated Agenda Time Needed (in minutes)	Title
<b>Meeting : 10/18/21 07:00 PM (7 items)</b>		
Discussion, Instructions and Possible Adoption	30	Appointed Officials' Proposed Policies and Procedure Guidelines -BCTF Recommendation
Presentation	20	Draft Resolution on Proposed Youth Commission
Introduction and Possible Adoption	20	Resolution to Approve the Brightview Senior Housing Alternative Housing Agreement
Presentation	45	RedGate Park: Update on First Community Engagement & Next Steps
Discussion and Instructions	40	Discussion and Instructions to Staff on Project Plan PJT2021-00013, King Buick, for a Proposed Residential Development with Up to 253 Townhouses and 118 Multifamily Units at 16200 Frederick Road: EYA Development, Applicant
Presentation	20	Montgomery County Presentation on MD 355 BRT
Discussion	20	Senior Citizen's Commission Update and Report
<b>Total Meeting Time (In Hours)</b>	<b>3 HRS 15 MINS</b>	

Attachment 17.A.c: Future Agendas as of 9.13.21 (3859 : Future Agendas)

**Future Agendas  
As of 09/13/2021**

17.A.c

Category	Estimated Agenda Time Needed (in minutes)	Title
<b>Meeting : 10/25/21 07:00 PM (12 items)</b>		
Introduction and Possible Adoption	20	Introduction and Possible Adoption of an Ordinance to Establish Water and Sewer Charges
Introduction and Possible Adoption	20	FY 2022 Budget Amendment (Amendment #1)
Discussion and Instructions	20	FY 2023 Budget Calendar and Budget Surveys
Public Hearing	20	FY 2023 Budget Public Hearing
Public Hearing	30	Public Hearing on American Rescue Plan Act Funds
Discussion	30	Discussion on Reduction in Force and Furlough Policy
Discussion	30	Discussion on Paid Parental Leave Policy
Presentation and Discussion	20	REDI Annual Report
Consent	5	Award of (Jurisdiction TBD) Rider Contract (# TBD), One Dump Truck, to (Vendor TBD) of (Location TBD) in the Amount of (\$ TBD)
Consent	5	Award of Contract (# TBD), Two Rear Packer Refuse Trucks, to (Vendor TBD) of (Location TBD) in the Amount of (\$ TBD)
Consent	5	Award of Sourcewell Contract #052417-CMT, Tandem Axle Concrete Mixer, to Cement Tech of (Location TBD) in the Amount of (\$ TBD)
Consent	5	Award of (Jurisdiction TBD) Rider Contract (# TBD), Road Salt, to (Vendor TBD) of (Location TBD) in the Amount Not to Exceed (\$ TBD)
<b>Total Meeting Time (In Hours)</b>	<b>3 HRS 30 MINS</b>	
Category	Estimated Agenda Time Needed (in minutes)	Title
<b>Meeting : 11/1/21 07:00 PM (9 items)</b>		
Proclamation	5	Proclamation Declaring Municipal Government Works Month
Proclamation	5	Proclamation Declaring National Family Caregivers Awareness Month
Discussion and Possible Approval	20	2022 State Legislative Priorities
Proclamation	5	Proclamation for National American Indian Heritage Month
Public Hearing	20	Public Hearing on Project Plan Application PJT2020-00012, a Request to Allow Up to 350 Multifamily Units Instead of Office Development on an Undeveloped Property Within the Fallsgrove Planned Development (PD) at 1800 Research Boulevard; Key West Center Fallsgrove LLC, Applicants
Discussion and Instructions	55	Discussion and Instructions to Staff and Possible Adoption of a Resolution to Approve Project Plan PJT2018-00010, a Request to Amend an Existing Planned Development to Allow a Retail and Office Center at the Southeast Corner of the Intersection of Rockville Pike and Edmonston Drive, Known as 900 Rockville Pike; J. Danshes LLC, Applicant
Presentation and Discussion	20	Presentation of Planning Commission Annual Report
Presentation	45	Update on Vision Zero and Bikeway and Pedestrian Master Plans
Discussion	30	Cultural Arts Commission Annual Report

Attachment 17.A.c: Future Agendas as of 9.13.21 (3859 : Future Agendas)



Future Agendas  
As of 09/13/2021

17.A.c

<b>Total Meeting Time (In Hours)</b>	<b>3 HRS 25 MINS</b>	
<b>Category</b>	<b>Estimated Agenda Time Needed (in minutes)</b>	<b>Title</b>
<b>Meeting : 11/8/21 07:00 PM ( 8 items)</b>		
Discussion, Instructions and Possible Adoption	30	Potential Extension of the MPDU Control Period from the Current 30 to a Longer Period for the Rental Component of the Program
Adoption	20	To Approve, with Conditions, Project Plan Application PJT2021-00013, to Allow a Proposed Residential Development with Up to 253 Townhouses and 118 Multifamily Units at 16200 Frederick Road; EYA Development, Applicant
Discussion and Instructions	20	Discussion and Instructions to Staff on Project Plan Application PJT2020-00012, a Request to Allow Up to 350 Multifamily Units Instead of Office Development on an Undeveloped Property Within the Falls Grove Planned Development (PD) at 1800 Research Boulevard; Key West Center Falls Grove LLC, Applicants
Discussion	45	Proposed Parkland Dedication Requirements, Including Fee-In-Lieu of Dedication and Impact Fees
Presentation and Discussion	40	Presentation and Discussion on Draft Climate Action Plan
Presentation	30	Environment Commission Presentation of Annual Report
Consent	5	Approval of the King Farm Buick Road Code Waiver
Public Hearing	10	Public Hearing on the Street Closing and Abandonment for 205 Mount Vernon Place
<b>Total Meeting Time (In Hours)</b>	<b>3 HRS 20 MINS</b>	
<b>Category</b>	<b>Estimated Agenda Time Needed (in minutes)</b>	<b>Title</b>
<b>Meeting : 11/15/21 07:00 PM (6 items)</b>		
Discussion and Instructions	20	Discussion and Instruction on Education Commission
Consent	5	Approval of FY2023 CDBG Grant Application Submission to Montgomery County
Discussion and Instructions	30	Employee Homeownership Program
Discussion	30	Discussion on Work-Related Injury Benefits
Discussion and Instructions	60	Compensation and Classification Study: Presentation, Discussion, and Instruction
Adoption	20	To Approve, with Conditions, Project Plan Application PJT2017-00012, to Allow Up to 350 Multifamily Units Instead of Office Development on an Undeveloped Property Within the Falls Grove Planned Development (PD) at 1800 Research Boulevard; Key West Center Falls Grove LLC, Applicants
<b>Total Meeting Time (In Hours)</b>	<b>2 HRS 45 MINS</b>	
<b>Category</b>	<b>Estimated Agenda Time Needed (in minutes)</b>	<b>Title</b>

Attachment 17.A.c: Future Agendas as of 9.13.21 (3859 : Future Agendas)

**Future Agendas  
As of 09/13/2021**

<b>Meeting : 11/22/21 07:00 PM (7 items)</b>		
Presentation	20	Procurement Annual Report
Discussion	15	Good Neighbor Award Process
Discussion and Instructions	60	Comprehensive Review and Revision of the Personnel Policy and Procedures Manual (PPM)
Discussion, Instructions and Possible Adoption	60	Short-Term Residential Rentals Discussion, Instruction, and Possible Authorization of the ZTA
Discussion and Possible Authorization	20	Discussion and Possible Authorization to File Zoning Text Amendment to Regulate the Rental of Rooms in Residential Dwellings
Adoption	10	Adoption of Resolution - Amending the Master Fees for Public Works and Planning and Development Services
Approval	10	Police Department Parking Related Citation Fees and Fines
<b>Total Meeting Time (In Hours)</b>	<b>3 HRS 15 MINS</b>	
Category	Estimated Agenda Time Needed (in minutes)	Title
<b>Meeting : 12/6/21 07:00 PM (5 items)</b>		
Discussion	30	Volunteer Update
Proclamation	5	Proclamation Declaring Human Rights Day
Discussion and Instructions	30	Discussion and Instructions to Staff on Zoning Text Amendment Application TXT2019-00254 – Regarding Requirements for Accessory Buildings and Structures in Residential Zones; Mayor and Council of Rockville, Applicants
Presentation and Introduction	30	Presentation and Introduction of Amendments to the Property Maintenance Code, Being a Part of Chapter 5 of the Rockville City Code
Discussion, Instructions and Possible Adoption	10	Discussion and Instructions to Staff and Possible Adoption of the Street Closing and Abandonment Application for 205 Mount Vernon Place
<b>Total Meeting Time (In Hours)</b>	<b>1 HR 45 MINS</b>	
Category	Estimated Agenda Time Needed (in minutes)	Title
<b>Meeting : 12/13/21 07:00 PM (5 items)</b>		
Presentation	10	Fiscal Year 2021 Popular Annual Financial Report (PAFR)
Presentation	20	Fiscal Year 2021 Audited Annual Financial Report
Presentation and Discussion	60	FY 2023 Budget Priorities and Survey Results
Discussion and Instructions	60	Discussion and Instruction on ARPA Funds
Presentation and Discussion	30	Presentation of Board of Appeals Annual Report (Tentative)
<b>Total Meeting Time (In Hours)</b>	<b>3 HRS 00 MINS</b>	
Category	Estimated Agenda Time Needed (in minutes)	Title
<b>Meeting : 12/20/21 07:00 PM (1 items)</b>		
Presentation and Discussion (moved from 11/22)	45	Historic Resources Management Plan Presentation and Discussion
<b>Total Meeting Time (In Hours)</b>	<b>HRS 45 MINS</b>	

Attachment 17.A.c: Future Agendas as of 9.13.21 (3859 : Future Agendas)

**Future Agendas  
As of 09/13/2021**

**17.A.c**

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**Attachment 17.A.c: Future Agendas as of 9.13.21 (3859 : Future Agendas)**